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Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development 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 in and implemented throughout this Administrative Plan. The Section 89 rental assistance programs are federally funded and administered for Tampa by the Housing Authority of the City of Tampa through its Section 8 housing department.

Administration of the Section 8 Program and the functions and responsibilities of the Tampa Housing Authority (THA) staff shall be in compliance with the THA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

Jurisdiction

The jurisdiction of the THA is the city of Tampa and the county of Hillsborough.

A. HOUSING AUTHORITY MISSION STATEMENT

The Housing Authority of the City of Tampa strives to promote the development and professional management of a variety of affordable housing opportunities, facilities and supportive services to nurture neighborhoods, provide economic development and self-sufficiency activities for its residents while also assuring equal access to safe, quality housing for low and moderate income families throughout the community.

B. LOCAL GOALS [24 CFR 982.1]

PART I

Goal 1. Expand THA's Housing Portfolio by 1,000 Units

Objective: Add 250 homeless/other special needs units

Pursue strategies including development, acquisition, and public private partnerships to add 250 additional housing units for the homeless and other special needs populations.

Objective: Increase HCV landlords by 1000 new landlords

Grow owner participation in the Housing Choice Voucher Program by 1000 new landlords.

Objective: Increase HCV landlord by 500 in low-poverty areas

Grow owner participation in low-poverty and lower-concentration areas by 500 new landlords.

Objective: Increase Vouchers by 500

Increase THA's overall voucher allocation by 500

Goal 2 - Reduce Financial Dependency on HUD Public Housing Subsidy by 30%

Objective: Streamline Operations to continue high performer operations

Objective: Implement strategies to reduce zero income households

Goal: 03 - Identify and Deploy Technology to Enhance Operational Effectiveness and Efficiency throughout the Agency.

Objective: Use Yardi for automation of tasks and document storage

Objective: Use electronic signature technology

Objective: Set up online inspection results portal

Objective: Deliver electronic reminders to HCV participants/landlords

Objective: Set up online HCV landlord portal

Objective: Explore integrating rental list and rent reasonableness database

Objective: Set up online HCV tenant portal and automated kiosk

Objective: Enhance waiting list tool

Objective: Create online virtual tours for voucher holders

Objective: Enhance systems to provide a variety of formats

Goal: 04 - Promote Resident Self-Sufficiency

Objective: Increase FSS enrollment by 250 families

PART II

To assist local economy by increasing the occupancy rate and the amount of money flowing into the community.

To encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.

To create positive public awareness and expand the level of family, owner, and community support in accomplishing the THA's mission.

To attain and maintain a high level of standards and professionalism in our day-to-day management of all programs components.

To administer an efficient, high-performing agency through continuous improvement of the THA's support systems and commitment to our employees and their development.

To provide decent, safe, and sanitary housing for very low income families while maintaining their rent payments at an affordable level.

To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.

To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.

To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low income families.

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

C. PURPOSE OF THE PLAN [24 CFR 982.54]

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Plan. The Housing Choice Voucher Program is implemented as of 10/1/99; pre-merger Housing Voucher tenancies, and Over Fair Market Rent Tenancy converted automatically to Housing Choice Tenancies on that date. All other existing contracts remained in effect until the family's second reexamination after the merger date or whenever a new lease was executed.

The THA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The original Plan and any changes must be approved by the Board of Commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

Applicable regulations include:

24 CFR Part 5: General Program Requirements

24 CFR Part 8: Nondiscrimination

24 CFR Part 982: Section 8 Tenant-Based Assistance

Local rules that are made part of this Plan are intended to promote local housing objectives consistent with the intent of the federal housing legislation.

D. ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

Expenditures from the Administrative Reserve (Operating Reserve) for other housing purposes shall not exceed **\$50,000** per occurrence (in accordance with current procurement policies) without the prior approval of the Housing Authority of the City of Tampa Board of Commissioners. All expenditures must comply with the procurement policy of the agency.

E. RULES AND REGULATIONS [24 CFR 982.52]

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

F. TERMINOLOGY

The Housing Authority of the City of Tampa is referred to as "THA" or "Housing Authority" throughout this document.

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

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

"Landlord" and "owner" are used interchangeably.

"Disability" is used where "handicap" was formerly used.

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

The Section 8 program is also known as the Housing Choice Voucher Program.

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

"Failure to Provide" refers to all requirements in the first Family Obligation. See "Denial or Termination of Assistance" chapter.

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

G. FAIR HOUSING POLICY [24 CFR 982.54(d)(6)]

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

The THA shall 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, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability.

To further its commitment to full compliance with applicable Civil Rights laws, the THA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet and available upon request at the front desk.

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

Posters and housing information are posted throughout the Housing Authority office/s, in such a manner as to be easily readable from a wheelchair.

The Housing Authority of the City of Tampa office(s) are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TTD telephone service provider.

H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]

It is the policy of this THA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to families.

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the PHA will treat a person differently than anyone else. The THA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an

accommodation will be made known by including notices on THA forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the THA, when the THA initiates contact with a family including when a family applies, and when the THA schedules or reschedules appointments of any kind.

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following ADA definition:

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

A record of such impairment; or

Being regarded as having such an impairment

Note: This is not the same as the HUD definition used for purposes of determining allowances.

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403(a), individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the person's status as a qualified person with a disability is confirmed, the Housing Authority will require that a reliable, professional third party competent to make the assessment, provides written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

If the Housing Authority finds that the requested accommodation creates an undue administrative or financial burden, the Housing Authority will either deny the request and/or present an alternate accommodation that will still meet the need of the person.

An undue administrative burden is one that requires a fundamental alteration of the essential functions of the Housing Authority (i.e., waiving a family obligation).

An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the THA.

The THA will provide a written decision to the person requesting the accommodation within a reasonable time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the THA's decision.

Reasonable accommodation will be made for persons with a disability that requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

All THA mailings will be made available in an accessible format upon request, as a reasonable accommodation.

Verification of Disability

The THA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

Outreach

Outreach efforts will include notification of the media and agencies listed in the THA's Administrative Plan regarding public notices (see section on opening and closing the waiting list in "Applying for admission" chapter.)

Applying for Admission

All persons who wish to apply for any of the THA's programs must submit a pre-application in written format, as indicated in our public notice. Applications will be made available in an accessible format upon request from a person with a disability.

To provide specific accommodation to persons with disabilities, upon request, the information, including the application may be mailed to the applicant and, if requested, it will be mailed in an accessible format. The postmark will be used as the application date, using the time of 12:00 p.m. As a reasonable accommodation the agency may mail the application in advance to allow the person with disabilities to submit an application as early as the first day, but no sooner.

The full application is completed at the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is requested by a person with a disability. Applicants will then be interviewed by THA staff to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time. The full application will also include questions asking all applications whether reasonable accommodations are necessary.

I. TRANSLATION OF DOCUMENTS

The Housing Authority has bilingual staff to assist non-English speaking families in the following languages Spanish and translates documents into the following languages Spanish.

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

Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.

Estimated cost to THA per client of translation of English written documents into the other language.

The availability of local organizations to provide translation services to non-English speaking families.

Availability of bi-lingual staff to provide translation for non-English speaking families.

J. MANAGEMENT ASSESSMENT OBJECTIVES

The THA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the THA is using its resources in a manner that reflects its commitment to quality and service. The THA policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators.

Selection from the Waiting List

Reasonable Rent

Determination of Adjusted Income

Utility Allowance Schedule

HQS Quality Control Inspections

HQS Enforcement

Expanding Housing Opportunities

FMR/exception rent & Payment Standards

Annual Re-examinations

Correct Tenant Rent Calculations

Pre-Contract HQS Inspections

Annual HQS Inspections

Lease-up

Family Self-Sufficiency Enrollment and Escrow Account Balances

Bonus Indicator De-concentration

Supervisory quality control reviews will be performed by a THA Supervisor or other qualified person other than the person (Internal Auditor) who performed the work, 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 will be drawn in an unbiased manner, leaving a clear audit trail.

The minimum sample size to be reviewed will relate directly to each factor.

K. RECORDS FOR MONITORING PHA PERFORMANCE

In order to demonstrate compliance with HUD and other pertinent regulations, the THA will maintain records, reports and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and or assess the THA's operational procedures objectively and with accuracy and in accordance with SEMAP requirements with internal supervisory audits.

In addition to the required SEMAP documentation, supervisory staff audit the following functions:

Not less than 3 percent of reexaminations

Not less than 3 percent of new applications

L. PRIVACY RIGHTS [24 CFR 982.551 and 24 CFR 5.212]

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

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

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the Assistant Director of Assisted Housing.

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

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

M. CONFLICT OF INTEREST [982.161]

(a) Neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter: (1) Any present or former member or officer of the PHA (except a participant commissioner); (2) 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; (3) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or (4) Any member of the Congress of the United States.

(b) Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest to the PHA and HUD.

(c) The conflict of interest prohibition under this section may be waived by the HUD field office for good cause

N. FAMILY OUTREACH [24 CFR 982.153(b)(1)]

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

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

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

O. OWNER OUTREACH [24 CFR 982.54(d)(5)]

The THA makes a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements.

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

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

The THA maintains a list of interested landlords/list of units available for the Section 8 Program and updates this list at least daily. When listings from owners are received, they will be compiled by the THA staff by bedroom size.

The THA will maintain lists of available housing submitted by owners in all neighborhoods within the Housing Authority's jurisdiction to ensure greater mobility and housing choice to very low income households. The lists of units will be provided at the front desk/mailed on request and provided at briefings.

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

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

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

The THA will actively recruit property owners with property located outside areas of minority and poverty concentration and apply for exception payment standards if the THA determines it is necessary to make the program more accessible in the THA's jurisdiction.

The THA encourages program participation by owners of units located outside areas of poverty or minority concentration. The THA periodically evaluates the demographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choices and better housing opportunities to families. Voucher holders are informed of a broad range of areas where they may lease units inside the THA's jurisdiction and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration.

The THA shall periodically:

- Request the HUD Field Office to furnish a list of HUD-held properties available for rent.

- Develop working relationships with owners and real estate broker associations.

- Establish contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displacements.

- Explain the program, including equal opportunity requirements and nondiscrimination requirements, including Fair Housing Amendments Act of 1988 and Americans with Disabilities Act, to real estate agents, landlords, and other groups that have dealings with low-income families or are interested in housing such families.

Chapter 2

ELIGIBILITY FOR ADMISSION

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

INTRODUCTION

This Chapter defines both HUD and the THA's criteria for admission and denial of admission to the program. The policy of this THA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The THA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the THA pertaining to their eligibility.

A. ELIGIBILITY FACTORS [982.201(B)]

The THA accepts applications only from families whose head or spouse is at least 18 years of age or emancipated minors under State law.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the THA.

The HUD eligibility criteria are:

An applicant must be a "family"

An applicant must be within the appropriate Income Limits

An applicant must furnish Social Security Numbers for all family members

An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required

At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before the THA may provide any financial assistance.

An applicant must pass the eligibility criteria test for students enrolled in institutions of higher education.

Congress has established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education. •

These restrictions only apply to students applying for

or receiving assistance under Section 8 of the U.S. Housing Act of 1937.

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.

Restriction On Assistance

24 CFR 5.612 • The restriction on Section 8 assistance only applies to individuals who:

- Are enrolled at an institution of higher education;
- Are under the age of 24;
- Are not veterans;
- Are not married;
- Do not have a dependent child; and
- Are not persons with disabilities, as defined below, who were receiving HCV assistance as of November 30, 2005.

FR Notice 4/10/06, • Students meeting these criteria are subject to a two-part income eligibility test. Both the student and the student's parents (the parents individually or jointly) must be income eligible in order for the student to be eligible to receive section 8 assistance.

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance" chapter. These reasons for denial constitute additional admission criteria.

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a Voucher, unless the THA determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

B. FAMILY COMPOSITION [24 CFR 982.201 and 982.201 (c)]

The applicant must qualify as a Family. A Family may be a single person or a group of persons. A person or group of persons, as determined by the PHA consistent with 24 CFR 5.403, approved to reside in a unit with assistance under the program. A "family" includes a family with a child or children. A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family. The THA determines if any other group of persons qualifies as a "family."

A single person family may be:

An elderly person

A displaced person

A person with a disability

Individuals may not be considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence.

Any other single person

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

A family also includes:

Two or more persons who intend to share residency whose income and resources are available to meet the family's needs and who have a history as a family unit or show evidence of a stable family relationship.

Two or more elderly or disabled persons living together, or one or more elderly, near elderly or disabled persons living with one or more live-in aides is a family.

Head of Household

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

Spouse of Head

Spouse means the husband or wife of the head.

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

Co-Head

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

Foster Children

THA will recognize foster children as those child/children who are in the legal guardianship of a state, county or private adoption or foster care agency, yet are cared for by licensed foster parents who are in their own homes.

Resolution 2010-3648 approved March 17th, 2010

Live-in Attendants

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

Is determined by the THA to be essential to the care and well-being of a person with disabilities,

Is not obligated for the support of the person(s), and

Would not be living in the unit except to provide care for the person(s).

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 may not be considered as a remaining member of the tenant family.

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

A Live in Aide may only reside in the unit with the approval of the THA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is disabled.

Verification must include the hours the care will be provided.

At any time, the THA will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

The person commits drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to the THA or to another THA in connection with Section 8 or public housing assistance under the 1937 Act.

Hours of Care Requirement

If a household member requires twenty-four (24) hour assistance based on their disability for seven (7) days a week as determined by a qualified professional, a live-in aide will be approved; however, the live-in aide may not engage in other outside employment.

If a household member requires more than eight (8) hours a day of assistance based on their disability as determined by a qualified professional, a live-in aide will be approved; however, the live-in aide may engage in other outside employment during hours that don't conflict with hours required for assistance to the household resident by the live-in aide.

If a household member requires less than eight (8) hours a day of assistance based on their disability as determined by a qualified professional, a live-in aide will not be approved.

Resolution 2009-3589 approved 02/18/2009

Split Households Prior to Voucher Issuance

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

Which family member applied as head of household.

Which family unit retains the children or any disabled or elderly members.

Restrictions that were in place at the time the family applied.

Role of domestic violence in the split.

Recommendations of social service agencies or qualified professionals such as children's protective services.

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

In cases where domestic violence played a role, the standard used for verification will be the same as that required for the "domestic violence" preference

The THA will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home (See "Establishing Preferences and Maintaining the Waiting List" chapter).

Multiple Families in the Same Household

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

Joint Custody of Children

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively.

There will be a self-certification and verification required of families who claim joint custody or temporary guardianship.

When both parents are on the Waiting List and both are trying to claim the child, the parent who can establish custody will be allowed to claim the minor as a dependent.

When parents claim 50/50 custody, the parent must provide proof that children are registered through Hillsborough County schools or private schools. Verification can also be received through other means such as TANF, Food Stamps or medical. If it is verified that the children are registered under the HOH name, then the children can be added through the submission of an interim change form. If sharing 50/50 children must be removed and added each time the percentage of time has lapsed.

C. INCOME LIMITATIONS [24 CFR 982.201(b), 982.353]

To be eligible for assistance, an applicant must:

Have an Annual Income at the time of admission that does not exceed the **very low** income limits for occupancy established by HUD.

To be income eligible the applicant must be a family in the very low income category, which is a family whose income does not exceed 50 percent of the area median income. The THA will not admit families whose income exceeds 50 percent of the area median income except those families included in 24 CFR 982.201(b).

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 low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 120 days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act.

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 a home-ownership program 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 a 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 home ownership program.

A low-income family meeting the eligibility requirements for welfare-to-work vouchers.

To determine if the family is income-eligible, the THA compares the Annual Income of the family to the applicable income limit for the family's size.

Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

Portability: For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving PHA in which they want to live.

D. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218]

1. In accordance with 24 CFR 5.216 applicants and participants (including each member of the household) are required to disclose his/her assigned SSN, with the exception of the following individuals:
 - a. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.
 - b. Existing program participants as of January 31, 2010 who have previously disclosed their SSN and HUD has determined the SSN to be valid.
 - c. Existing program participants as of January 31, 2010 who are 62 years of age or older, and had not previously disclosed a valid SSN.

2. Social Security Documentation

The PHA must request the applicant and participant including any household member of the household, who are not exempt to provide documentation of each disclosed SSN.

Acceptable evidence of the SSN consists of:

- a. An original SSN card issued by SSA;
- b. An original SSA-issued document, which contains the name and SSN of the individual; or
- c. An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

3. Rejection of Documentation

The PHA may reject documentation of the SSN provided by the applicant or participant for only the following reason:

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

4. Individuals without an assigned SSN

It is not uncommon for certain individuals to not have a SSA-assigned SSN. Below is a listing of such individuals, which is not all-inclusive:

- a. Newborn children
- b. Non-citizens lawfully present in the U.S. (these individuals will be issued a SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by law to provide a SS number to receive general assistance benefits that they already have qualified for)
- c. Non-citizens unlawfully present in the U.S. –not eligible for benefits unless family is considered a “mixed” household.

Citizens and lawfully present non-citizens who state that they have not been assigned a SSN by the SSA, should make such declaration in writing and under penalties of perjury to the PHA.

PHAs may use the ALT ID generator within the PIC system to generate a unique identifier for those individuals who do not have or unable to disclose a SSN.

5. Family Member Under the Age of 6

An applicant family may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years. An extension of one additional 90-day period must be granted if the PHA determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant. If the applicant family does not produce the required documentation within the authorized time period, THA will impose appropriate penalties. In terms of offering a grace period and an extension, if merited, THA will implement this provision just as it currently implements the provision for program participants. Specifically, an applicant family with a child under the age of 6 years may become a participant family, even if the SSN for the child has not been verified at the time of admission. If the SSN has still not been verified at the end of the initial 90-day period,

THA will determine whether a 90-day extension is merited. If it is not merited, then THA will follow the provisions of violations as indicated below.

When a participant requests to add a new member age 6 or under and has an assigned SSN the participant must disclose the SSN and provide the PHA with documentation. If the family is unable to provide the documentation, then the member may not be added.

When a participant requests to add a household member who is under the age of 6 and has not been assigned a SSN, the participant must disclose the assigned SSN and provide the PHA with the documentation within 90 calendar days of the child being added to the household.

If the family fails to provide the documentation within 90 days, the PHA is required to grant the family an additional 90 days if the PHA determines the family could not provide the documentation due to circumstances beyond the family's control such as natural disaster, fire, death in a family, delayed processing of an application, etc.

The child is to be included as part of the family using the generated ALT ID. Upon expiration of the provided time period, if the family has not complied with the providing the necessary documents, the PHA must terminate the entire family's rental assistance.

RESOLUTION 2016-3997 approved 05/18/2016

6. Penalties for Failure to Disclose and/or Provide Documentation of the SSN

- a. The PHA must deny the eligibility of an assistance **applicant** and all household members if they failed to disclose their SSNs. However if the family is otherwise eligible to participate in the program, the family may maintain his/her position on the waitlist for a period of time as determined by the PHA. The Tampa Housing Authority will not allow the family to remain on the waitlist. If the family is unable to disclose their SSN during the interviewing process or 30 days thereafter, they will not be eligible to remain on the waitlist and must reapply when the waitlist is re-opened.
- b. The PHA must terminate the assistance of Section 8 program participants (the entire household) if he or she or any member of the household does not disclose his or her SSNs and provide the required documentation.

The Tampa Housing Authority will require the family to supply the requested information within 30 days. If the family fails to supply the requested information within the time requested, they will be processed for termination.

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither, may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

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

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

Non-citizen students. Defined by HUD in the non-citizen regulations. Not eligible for assistance.

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

F. OTHER CRITERIA FOR ADMISSIONS [24 CFR 982.552(b)]

The THA will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

The family must not have violated any family obligation during a previous participation in the Section 8 program for three (3) years prior to final eligibility determination.

The THA will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.

The family must pay any outstanding debt owed the PHA or another THA as a result of prior participation in any federal housing program within [thirty (30) days of THA notice to repay.

The THA will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the section the "Denial or Termination of Assistance" chapter.

If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the THA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).

G. TENANT SCREENING [24 CFR 982.307)]

The THA will take into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter.

The THA will not screen family behavior or suitability for tenancy. The THA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before THA approval of the tenancy, the THA will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as:[24 CFR 982.307(a)(3)]

- Payment of rent and utility bills

- Caring for a unit and premises

- Respecting the rights of other residents to the peaceful enjoyment of their housing

- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and

- Compliance with other essential conditions of tenancy.

The THA will advise families how to file a complaint if they have been discriminated against by an owner. The THA will advise the family to make a Fair Housing complaint. The THA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

H. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment.

I. INELIGIBLE FAMILIES

Families who are 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 if they were denied due to non-citizen status. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]

Admission to the program may not be based on where the family lives before admission to the program.

Admission to the program may not be based on:

Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.

Discrimination because a family includes children.

Whether a family decides to participate in a family self-sufficiency program; or

Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.

Chapter 3

APPLYING FOR ADMISSION

[24 CFR 982.204]

INTRODUCTION

The policy of the THA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, 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 THA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Plan.

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

The purpose of application taking is to permit the THA to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information.

Families who wish to apply for any one of the THA's programs must complete an application online when application-taking is open. Applications will be made available in an accessible format upon request from a person with a disability.

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

Applications will be mailed to interested families upon request as a reasonable accommodation request.

The application process will involve two phases. The first is the "initial" application for assistance (referred to as a preliminary application). This first phase results in the family's placement on the waiting list.

The preliminary application will be dated, time-stamped, and referred to the THA's eligibility office where it will be maintained until such time as it is needed for processing.

The second phase is the "final determination of eligibility" (referred to as the full application). The full application takes place when the family reaches the top of the waiting list. At this time the THA ensures that verification of all HUD and THA eligibility factors is current in order to determine the family's eligibility for the issuance of a voucher.

B. OPENING/CLOSING OF APPLICATION TAKING [24 CFR 982.206, 982.54(d)(1)]

The THA will utilize the following procedures for opening the waiting list.

When the THA opens the waiting list, the THA will advertise through public notice in the following newspapers, minority publications and media entities, location(s), and program(s) for which applications are being accepted:

Tampa Tribune, Florida Sentinel, La Gaceta and DCF

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.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the THA address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

If the waiting list is open, the THA will accept applications from eligible families unless there is good cause for not accepting the application; such as denial of assistance because of action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan. [24 CFR 982.206(b)(2)]

Closing the Waiting List

The THA may stop applications if there are enough applicants to fill anticipated openings for the next **24 months**. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The PHA will announce the closing of the waiting list by public notice.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next **24 months**. The THA will give at least five (5) days notice prior to closing the list. When the period for accepting applications is over, the THA will add the new applicants to the list by:

Separating the new applicants into groups based on preferences and ranking applicants within each group by lottery.

Limits on Who May Apply

When the waiting list is open:

Any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

When the application is submitted to the THA:

It establishes the family's date and time of application but will be placed on the list by lottery if eligible.

C. "INITIAL" APPLICATION PROCEDURES [24 CFR 982.204(b)]

The THA will utilize a preliminary application form. The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, the information may be completed by a staff person over the telephone. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format. Translations will be provided for non-English speaking applicants/by staff and by document/in Spanish.

The purpose of the preliminary application is to permit the THA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. Duplicate applications will not be accepted.

Ineligible families **will not** be placed on the waiting list.

Preliminary applications **will not** require an interview. The information on the application **will not** be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

D. APPLICANT STATUS WHILE ON WAITING LIST [CFR 982.204]

Applicants are required to inform the THA in writing of changes in address. Applicants are also required to respond to requests from the THA to update information on their application and to determine their interest in assistance.

If after a review of the preliminary application the family is determined to be preliminarily eligible, they will be notified in writing or in an accessible format upon request, as a reasonable accommodation.

The notice will contain the approximate date that assistance may be offered, and will further explain that the estimated date is subject to factors such as turnover and available funding.

This written notification of preliminary eligibility will be:

Mailed to the applicant by first class mail, or distributed to the applicant in the manner requested as a specific accommodation.

If the family is determined to be ineligible based on the information provided in the preliminary application, the THA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See "Complaints and Appeals" chapter.

E. TIME OF SELECTION [24 CFR 982.204]

When funding is available, families will be selected from the waiting list in their determined sequence, regardless of family size, subject to income targeting requirements.

When there is insufficient funding available for the family at the top of the list, the THA will not admit any other applicant until funding is available for the first applicant.

Based on the THA's turnover and the availability of funding, groups of families will be selected from the waiting list to form a final eligibility "pool." Selection from the pool will be based on /completion of verification.

F. COMPLETION OF A FULL APPLICATION

All preferences claimed on the preliminary application or while the family is on the waiting list will be verified:

After the family is selected from the waiting list, and prior to completing the full application

The qualification for preference must exist at the time the preference is claimed and at the time of verification, because claim of a preference determines placement on the waiting list.

Preferences will only be verified at the time the family is pulled from the waitlist. After the preference is verified, applicants will be required to:

Complete a Personal Declaration Form prior to the full application interview.

Complete a Personal Declaration in their own handwriting, unless assistance is needed, or a request for accommodation is made by a person with a disability. Applicant will then be interviewed by THA staff to review the information on the full application form.

Participate in a full application interview with a THA representative during which the applicant will be required to furnish complete and accurate information verbally as requested by the interviewer. The THA interviewer will complete the full application form with answers supplied by the applicant. The applicant will sign and certify that all information is complete and accurate.

The Personal Declaration will be mailed to the applicant in advance to complete.

Requirement to Attend Interview

The THA utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other THA services or programs which may be available.

All adult family members are required to attend the interview and sign the housing application.

Exceptions may be made for students attending school out of state/for members for whom attendance would be a hardship.

The head and spouse are both required to attend the interview.

If the head of household cannot attend the interview, the spouse may attend to complete the application and certify for the family. The head of household, however, will be required to attend an interview within ten (10) days to review the information and to certify by signature that all of the information is complete and accurate.

It is the applicant's responsibility to reschedule the interview if he or she misses the appointment. If the applicant does not reschedule or misses one scheduled meetings, the THA will reject the application.

Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than the day of the original appointment date. The request must be made to the staff person who scheduled the appointment.

If an applicant fails to appear for their interview without prior approval of the THA, their application will be denied unless they can provide acceptable documentation to the THA that an emergency prevented them from calling.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review. (See "Complaints and Appeals" chapter.)

All adult members must sign the HUD Form 9886, Release of Information, **the application form and all supplemental forms required by the THA**, the declarations and consents related to citizenship/immigration status and any other documents required by the THA. Applicants will be required to sign specific verification forms for information which is not covered by the HUD form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by the THA.

If the THA determines at or after the interview that additional information or document(s) are needed, the THA will request the document(s) or information **in writing**. The family will be given **ten (10) days** to supply the information.

If the information is not supplied in this time period, the THA will provide the family a notification of denial for assistance. (See "Complaints and Appeals" chapter)

G. VERIFICATION [24 CFR 982.201(e)]

Information provided by the applicant will be verified, using the verification procedures in the "Verification Procedures" chapter. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. Verifications may not be more than 60 days old at the time of issuance of the Voucher.

H. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY
[24 CFR 982.201]

After the verification process is completed, the THA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the THA, and the current eligibility criteria in effect. If the family is determined to be eligible, the THA will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

Chapter 4

ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

[24 CFR Part 5, Subpart D; 982.54(d)(1); 982.204, 982.205, 982.206]

INTRODUCTION

It is the THA's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan.

This chapter explains the three (3) Ranking Preferences and the three (3) local preferences which the THA has adopted to meet local housing needs, defines the eligibility criteria for the preferences and explains the THA's system of applying them.

By maintaining an accurate waiting list, the THA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

A. WAITING LIST [24 CFR 982.204]

The THA uses a single waiting list for admission to its Section 8 tenant-based assistance program.

The Tampa Housing Authority will use separate waitlists for all project-based assistance program per site.

Except for Special Admissions, applicants will be selected from the THA waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

The THA will maintain information that permits proper selection from the waiting list.

The waiting list contains the following information for each applicant listed:

Applicant Name

Family Unit Size (number of bedrooms family qualifies for under PHA subsidy standards)

Date and time of application

Qualification for any local preference

Racial or ethnic designation of the head of household

Annual (gross) family income

Number of persons in family

Singles preferences status

Targeted program qualifications

[Resolution 3283]

B. SPECIAL ADMISSIONS [24 CFR 982.54(d)(e), 982.203]

If HUD awards a THA program funding that is targeted for specifically named families, the THA will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The THA maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

A family displaced because of demolition or disposition of a public or Indian housing project;

A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;

For housing covered by the Low Income Housing Preservation and Resident Home-ownership Act of 1990;

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 5(h), HOPE 1 or HOPE 2 project; and

A family residing at a public housing site scheduled for comprehensive modernization or rehabilitation

A family residing at a public housing site with an EBL child **[Resolution 3293 adopted 10/23/02]**

A family participating under the HOPWA and Shelter + Care funding will be absorbed under the Housing Choice Voucher Program in the event that funding is reduced or eliminated. **[Resolution 3311 adopted 3/26/03]**

Any returning military personnel who left for active duty as a current Housing Choice Voucher Program participant for a period beyond 180 days. **[Resolution 3432 Adopted 9/23/05]**

C. WAITING LIST PREFERENCES [24 CFR 982.207]

An applicant will not be granted any preference if any member of the family has been evicted from housing assisted under a 1937 Housing Act program during the past three years because of drug-related criminal activity.

The PHA will grant an exception to such a family if:

The responsible member has successfully completed a rehabilitation program.

The evicted person clearly did not participate in or know about the drug-related activity.

The evicted person no longer participates in any drug related criminal activity.

If an applicant makes a false statement in order to qualify for a preference, the THA will deny admission to the program for the family.

D. LOCAL PREFERENCES [24 CFR 5.410]

The THA will offer public notice when changing its preference system and the notice will be publicized using the same guidelines as those for opening and closing the waiting list. Per the grant, THA will also accept referrals from qualified agencies.

The THA uses the following Local Preference system:

1. Section 811 Mainstream Preferences
 - a. transitioning out of institutional or other separated settings;
 - b. at serious risk of institutionalization;
 - c. homeless; or
 - d. at risk of becoming homeless
2. Involuntary Displacement – Natural Disaster
3. Involuntary Displacement- Government Action
4. Chronic homelessness
5. Homelessness
6. Disabled/Elderly
7. Working Preference

Preferences defined:

1. Section 811 Preferences

Institutional or other segregated settings include, but are not limited to: (1) congregate settings populated exclusively or primarily with individuals with disabilities; (2) congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or (3) settings that provide for daytime activities primarily with other individuals with disabilities.

At serious risk of institutionalization: Includes an individual with a disability who as a result of a public entity's failure to provide community services or its cut to such services will likely cause a decline in health, safety, or welfare that would lead to the individual's eventual placement in an institution. This includes individuals experiencing lack of access to supportive services for independent living, long waiting lists for or lack of access to housing combined with community based services, individuals currently living under poor housing conditions or homeless with barriers to geographic mobility, and/or currently living alone but requiring supportive services for independent living. A person cannot be considered at serious risk of institutionalization unless the person has a disability. An individual may be designated as at serious risk of institutionalization either by a health and human services agency, by a community-based organization, or by self-identification.

Homeless means:

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
 - An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
 - The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - No subsequent residence has been identified; and
 - The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
 - Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7

- 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
- Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
- Have experienced persistent instability as measured by two moves or more during the 60- day period immediately preceding the date of applying for homeless assistance; and
- Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(4) Any individual or family who:

- Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
- Has no other residence; and lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

At risk of becoming homeless: An individual or family who

Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately [available](#) to prevent them from moving to an [emergency shelter](#) or another place described in paragraph (1) of the "Homeless" definition in this section; and

Meets one of the following conditions:

- (A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - Is living in the home of another because of economic hardship;
- (B) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;
- (C) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, [State](#), or local government programs for low-income individuals;
- (D) Lives in a single-room occupancy or efficiency apartment unit in which there reside more

than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

- (E) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
- (F) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Families referred who meet the criteria preferences will jump to the top of the list and pulled from the list. Families will be pulled from the regular waitlist who have been on the list as well as processing referrals. This will ensure that families that meet the required criteria will be met. Referrals will be accepted from agencies affiliated with the COC and placed on waitlist.

Resolution 2018-4105 Approved November 28th, 2018

2. Involuntary displacement by natural disaster will receive 30 points:

At the discretion of the agency, waitlists that are not at capacity will be opened for those applicants who have been displaced due to a natural disaster. An application must be made within 30 days of the natural disaster occurrence or to be considered for this preference. At the discretion of the agency, applications may be accepted up to 90 days after the natural disaster.

(Resolution 2017-4077)

3. Involuntary displacement 20 points:

An applicant is, or will be, involuntarily displaced if the applicant has vacated or will vacate his/her housing unit as a result of being displaced by government action - Activity carried out by an agency of the United States or by any State or local governmental body a public improvement or development program.

(Resolution 2015-3936)

4. Chronically homeless will receive a preference point of 10 points:

Chronically homeless families are defined as “either (1) an unaccompanied homeless individual or family with a disabling condition and is considered disabled and who has been continuously homeless for a year or more, OR (2) an individual or family with a disabling condition and considered disabled and who has had at least four episodes of homelessness in the past three years. Homelessness is defined as a person sleeping in a place not meant for human habitation (e.g. living on the streets, for example) OR living in a homeless emergency shelter. A qualifying agency must be able to verify the instances of homelessness. Qualifying agency is one that works directly with the homeless and disabled population on a daily basis and one which that provides some type of supportive service to the family. If the instances of homelessness cannot be verified, the family will not qualify for this preference.

Families who meet this definition must also be receiving supportive services from a qualified agency. A qualified agency is one that provides supportive services to this specific population daily and on a continuous basis. The family meets both of the requirements the family will receive the preference points. Families must maintain case management services while participating on the program unless discharged by the partnering agency as completed.

This preference will receive higher weight than any other local preference. There will be an allotment of 60 vouchers total (24 CFR 982.207(a)(3) • HUD authorizes PHAs to limit the number of applicants that may qualify for any local preference.) Once those vouchers are filled, the only time another slot will be available will be through attrition. Slot must be filled by replacing with a chronically homeless individual and or family through a referral process from a qualified agency. Once the cap is met, and enough individuals are on the waitlist that meet the preference, THA may close the waitlist without notice.

Project Based Waitlist for the chronically homeless will be treated on a referral basis from the owner and or manager of any chronically homeless project. Families who only meet the definition of chronically homeless will be placed on this specific waitlist and any other project based programs specific to the chronically homeless.

5. Homelessness will receive a preference point of 5

People who are living in a place not meant for human habitation, in emergency shelter, in transitional housing, or are exiting an institution where they temporarily resided. People will be considered homeless if they are exiting an institution where they resided for up to 90 days and were in shelter or a place not meant for human habitation immediately prior to entering that institution.

Families with children or unaccompanied youth (18 years old or emancipated) who are unstably housed and likely to continue in that state. Families with children or unaccompanied youth (18 years old or emancipated) who have not had a lease or ownership interest in a housing unit in the last 60 or more days, have had two or more moves in the last 60 days, and who are likely to continue to be unstably housed because of disability or multiple barriers to employment.

People who are fleeing or attempting to flee domestic violence, have no other residence, and lack the resources or support networks to obtain other permanent housing. Incidence of domestic violence must be verifiable either through police reports, social service organization, or some other source that THA deems as reliable. The PHA will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home.

The following criteria are used to establish a family's eligibility for this preference:

Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family.

The actual or threatened violence must have occurred within the past sixty (60) days or be of a continuing nature.

To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless the THA gives prior written approval.

The THA will approve the return of the abuser to the household under the following conditions:

The THA verifies that the abuser has received therapy or counseling that appears to minimize the likelihood of recurrence of violent behavior.

A counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.

If the abuser returns to the family without approval of the THA, the THA will deny or terminate assistance for breach of the certification.

6. Disabled or Elderly will receive a preference point of 5

This preference is extended to persons or families where the head of household, spouse or co-head is elderly or disabled. Proof of preference will be required at time of selection. [HUD regulations prohibit admission preferences for specific types of disabilities.]

7. Working Preference of 5 points

Families with at least one adult whose head, spouse, or co-head are employed for at least 20 **(Resolution 2015-3936)** hours per week or who are active participants at least 30-40 hours a week in accredited post-secondary educational program or local training programs designed to prepare the individual for the job market. Employment, schooling, and job training must be verifiable. Verifiable indicates that THA will be able to determine without a doubt that the information, verification, and documentation provided is valid such as bank statements, third party verification, IRS forms, pay stubs, certifiable training schedules. Self-certification and a notarized statement may not be verifiable and may not be accepted as proof of employment or training. When selected from the waitlist, to qualify for this preference, he or she must be working and or going to school the required hours. If the family does not meet this preference or any preference, he or she will go back to the waitlist. This preference is automatically extended to elderly families or families whose head or spouse is receiving income based on their inability to work.

All preferences must meet the definitions outlined in the plan and **MUST** be verifiable by a source deemed reliable by the THA. Families could qualify for all preferences. All preferences will be of equal weight except for the chronically homeless which will receive a preference of 10 points and will be capped at 5 vouchers per month.

These preferences will be applied to all current and future waitlists. All applicants who are on the lists will be given the option to change their preference when the preferences are approved by the board and after public comment. All changes in preferences will either be done electronically and or in writing. Electronically refers to the family updating his or her application online as allowed and instructed by the agency.

Treatment of Single Applicants

Singles Preference (This is HUD's former singles preference from 5.405)

Applicants who are elderly, disabled, or homeless families of no more than two person families will be given a selection priority over all "Other Single" applicants regardless of preference status. "Other Single" denotes a one-person household in which the individual member is not elderly or disabled. Such applicants will be placed on the waiting list in accordance with any other preferences to which they are entitled, but they cannot be selected for assistance before any one or two person elderly, disabled or homeless family regardless of preferences.

RESOLUTION 2013-3818 Approved 02/20/2013

E. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the THA will reserve a minimum of seventy-five percent of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as "extremely low-income families." The THA will admit families who qualify under the Extremely Low Income limit to meet the income targeting requirement, regardless of preference.

The THA's income targeting requirement does not apply to low income families continuously assisted as provided for under the 1937 Housing Act.

The THA is also exempted from this requirement where the THA is 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.

Jurisdictions Served By More Than One Housing Authority

HUD will treat multiple Housing Authorities serving one jurisdiction as a single Housing Authority for income targeting purposes. The THA will cooperate with other Housing Authorities serving the same jurisdiction to assure that aggregate admissions comply with the 75% targeted income requirement for the jurisdiction.

HUD will determine which Housing Authority's fiscal year will be used for income targeting purposes, if the Housing Authorities do not have a single fiscal year.

The THA shall have the discretion, at least annually, to exercise the "fungibility" provision of the QHWRA. This provision allows the HA to admit less than the minimum 40% of its extremely low-income families in a fiscal year to its public housing program to the extent that the Housing Authority's admission of extremely low income families in the tenant-based assistance program exceeds 75% of all admissions during the fiscal year. If **exercising this** option the THA will follow the fungibility threshold limitations as set forth in QHWRA legislation.

The discretion by the THA to exercise the fungibility provision is also reflected in the Tampa Housing Authority admission and Continued Occupancy Policy.

F. INITIAL DETERMINATION OF RANKING AND LOCAL PREFERENCE QUALIFICATION[24 CFR 982.207]

At the time of application, an applicant's entitlement to a Ranking and/or Local Preference may be made on the following basis.

An applicant's certification that they qualify for a preference will be accepted without verification at the initial application. When the family is selected from the waiting list for the final determination of eligibility, the preference will be verified.

If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list without the Local Preference and given an opportunity for a meeting.

If, at the time the family applied, the preference claim was the only reason for placement of the family on the list and the family cannot verify their eligibility for the preference as of the date of application, the family will be removed from the list.

G. EXCEPTIONS FOR SPECIAL ADMISSIONS [24 CFR 982.203, 982.54(d)(3)]

If HUD awards a THA program funding that is targeted for specifically named families, the THA will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The THA maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD as exceptions for special admissions:

A family displaced because of demolition or disposition of a public or Indian housing project;

A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;

For housing covered by the Low Income Housing Preservation and Resident Home-ownership Act of 1990;

A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and

A non-purchasing family residing in a 5(h), HOPE 1 or HOPE 2 project.

A family residing at a public housing site scheduled for comprehensive modernization or rehabilitation.

A family residing at a public housing site with an EBL child [***Resolution 3293 adopted 10/23/02***]

A family participating under the HOPWA and Shelter + Care funding will be absorbed under the Housing Choice Voucher Program in the event that funding is reduced or eliminated. **[Resolution 3311 adopted 3/26/03]**

Any returning military personnel who left for active duty as a current Housing Choice Voucher Program participant for a period beyond 180 days. **[Resolution 3432 Adopted 9/23/05]**

H. TARGETED FUNDING [24 CFR 982.203]

When HUD awards special funding for certain family types, families who qualify are referred to the agency. When a specific type of funding becomes available, the waiting list may be searched for the first available family meeting the targeted funding criteria.

Applicants who are admitted under targeted funding which are not identified as a Special Admission **are identified by codes in the automated system.** The THA has the following "Targeted" Programs: **VASH / Family Unification Program (FUP) / Welfare to Work, and fair share vouchers designated for disabled families.**

The Family Unification funding is to assist families that have been certified through the local welfare agency that for the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children and must be eligible for Section 8. The existing waitlist must be searched for eligible FUP families based on referrals from the local child welfare agency. If there are eligible families, they will be assisted based on their position on the waitlist. If the waitlist is closed and a referral from the local child welfare agency is received, the waitlist must be opened for those specific families only. Those families will then be eligible to participate in the Family Unification Program. **(Resolution 2008-3551)**

The "Targeted" programs' size will be dependent on the dollars received from HUD and the community needs. Turnover dollars can be used to expand the various programs as determined by the Director of Assisted Housing. However, at no time will the minimum program size be reduced, while eligible families are available for participation.

I. PREFERENCE AND INCOME TARGETING ELIGIBILITY [24 CFR 982.207]

Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the THA in writing when their circumstances change.

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

The exception to this is, if at the time the family applied, the waiting list was only open to families who claimed that preference. In such case, the applicant must verify that they were eligible for the first preference before they are returned to the waiting list with the new preference.

If the family's verified annual income, at final eligibility determination, does not fall under the Extremely Low Income limit and the family was selected for income targeting purposes before family(s) with a higher preference, the family will be returned to the waiting list.

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.

The THA may not take any of the following actions because an applicant has applied for, received, or refused other housing: [24 CFR 982.205(b)]

Refuse to list the applicant on the PHA waiting list for tenant-based assistance;

Deny any admission preference for which the applicant is currently qualified;

Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under the THA selection policy; or

Remove the applicant from the waiting list.

However, the THA may remove the applicant from the waiting list for tenant-based assistance if the THA has offered the applicant assistance under the voucher program.

J. ORDER OF SELECTION [24 CFR 982.207(e)]

The THA's method for selecting applicants from a preference category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the administrative plan.

Local Preferences

Local preferences will be used to select families from the waiting list. Those without preferences will remain on the list but will be selected last.

Those who are selected as a preference and have been found not to have a preference will go back to the waitlist as a non-preference using the original application date.

The THA has selected the following system to apply ranking and local preferences:

All local preferences shall carry equal weight. **(Resolution 2007-3520).**

Among Applicants with Equal Preference Status

Among applicants with equal preference status applicants will be selected at random base on a lottery selection. **[Resolution No. 3296 adopted 11/20/2002]**

K. FINAL VERIFICATION OF PREFERENCES [24 CFR 982.207]

Preference information on applications will be updated as applicants are selected from the waiting list. At that time, the THA will:

Mail a Preference Verification letter to the applicant's last known address, requesting verification of the family's preference claim and mail third party verifications as applicable, or;

Obtain necessary verifications of preference at the interview and by third party verification.

L. PREFERENCE DENIAL [24 CFR 982.207]

If the THA denies a preference, the THA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal review with the Housing Manager. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the Waiting List.

M. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(c)]

The Waiting List will be purged not more than one time each year by a mailing to all applicants for an electronic application update (**Resolution 2013-3851**) to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant which require a response will state that failure to respond within ten (10) days or timeframe written in the notice will result in the applicant's name being dropped from the waiting list.

An extension of thirty (30) days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If an applicant fails to respond to a mailing from the THA, the applicant will be sent written notification and given ten (10) days to contact the THA. If they fail to respond within ten (10) days, they will be removed from the waiting list.

If the applicant did not respond to the PHA request for information or updates because of a family member's disability, the PHA will reinstate the applicant in the family's former position on the waiting list.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file.

If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Director of Assisted Housing or designee determines there were circumstances beyond the person's control. The following exceptions, if determined to exist, will be acceptable to warrant reinstatement: medical emergencies/jury duty reserves.

Applicants are required to contact the THA in writing every six (6) months to confirm their continued interest. The PHA will give written notification to all applicants who fail to respond at the required times. If they fail to respond to this notification, they will be removed from the waiting list.

The THA allows a grace period of one year after the date of notification of the purge (**Resolution 2013-3851**). Applicants who respond during this grace period will be reinstated back to the list close as possible to the original position on the pre-purged list.

N. PROJECT-BASED ASSISTANCE [CFR 982.205]

Waiting lists will be site specific for all project-based voucher assistance. All policies contained in this document that relate to admissions apply. All families on the tenant based waiting list will have the opportunity to be placed on a project-based waiting list.

THA will operate a tenant based and project based waitlist. Each applicant will have the opportunity to apply for all project based sites and tenant based vouchers when the waitlists are open. (**Resolution 2007-3539**) The project based waitlist applications will be placed on the lists by time and date of the application (**Resolution 2013-3852**) and not by lottery as is for the HCV tenant based waitlist when opened.

Referrals will be received for PB projects Villa Deville and MLK from the partnering supportive services agency or a qualifying agency that understands the complexity and definition of chronic homelessness. Families being placed on the waitlist for these specific PB projects must meet the definition of chronic homelessness. (**Resolution 2012-3798**)

Palm Terrace (ALF)

Applicants will be certified as eligible for Palm Terrace if they are 62 years or older and meet the criteria outlined in this policy.

Additional preference will be given to current Public Housing residents requiring services provided at the site.

The operator will maintain the waitlist, screen for additional eligibility requirements that are necessary for assisted living facilities, and then refer to THA for further eligibility determination.

Failure to meet the screening requirements will result in denial of admission. Any family on the tenant-based list or in Public Housing will not lose their current status. Others applying, that are not on a waitlist, will be denied and no other preferences will be offered.

[Resolution 3283]

Chapter 5

SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

INTRODUCTION

HUD guidelines require that THA's 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 be within the minimum unit size requirements of HUD's Housing Quality Standards. This Chapter explains the subsidy standards which will be used to determine the voucher size (family unit size) for various sized families when they are selected from the waiting list, as well as the THA's procedures when a family's size changes, or a family selects a unit size that is different from the Voucher.

A. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

The THA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The THA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

For subsidy standards, an adult is a person 18 years or older.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.

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

One bedroom will be generally be assigned for each two family members. Consideration will also be given for medical reasons and the presence of a live-in aide.

Generally, the PHA assigns one bedroom per two people within the following guidelines:

- Children five and under will be required to share a bedroom regardless of sex of the children.
- Children age five and under will be required to share a bedroom with said mother, father, guardian or caregiver.
- Individuals of the same sex ages 6 and older will be required to share a bedroom
- Members will only be added to the household composition through court awarded custody, birth, or adoption. **Resolution 2014-3884**
- 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 and will receive one bedroom
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled) must be counted in determining the family unit size;
- Unless a live-in-aide resides with the 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
- Participants must report the addition of household member(s) within 10 days of the change in household composition that is a result of court awarded custody, birth, or adoption.
- THA may also allow the addition of household members based on civil union, marriage, or domestic partnership. The addition of the member(s) will not allow for an increase in voucher size or allow for overcrowding of the unit.
- Consideration will also be provided to allow for the addition of elderly or disabled that are considered immediate family member(s) who are only being added due to the necessity of care. This must be verified by a professional competent who can render the opinion about the person's situation using normal verification procedures. The addition of the member will not allow for an increase in voucher size or allow for overcrowding of the unit. The term immediate family member will be defined as follows:

An individual with any of the following relationships to the head of household:

- Son or daughter
- Parent
- Brother or sister
- Grandparent

In addition, all members requested to be added to the household must have prior approval of the owner except for birth, court awarded custody, and adoption. Consideration will also be provided to allow for the addition of elderly or disabled that are considered immediate family member(s) who are only being added due to the necessity of care that cannot be provided by any other person/entity that must be verifiable. This must be verified by a professional competent who can render the opinion about the person's situation using normal verification procedures. The addition of the member will not allow for an increase in voucher size or allow for overcrowding of the unit

Resolution 2015-3937 approved March 25, 2015

Resolution 2013-3824 approved March 27th, 2013

Resolution 2014-3884 approved May 21st, 2014

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	Persons in Household	
	Minimum Number	Maximum Number
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	5	10

B. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.403(a) & (b)]

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

Verified medical or health reason; or

Elderly persons or persons with disabilities who may require a live-in attendant.

Request for Exceptions to Subsidy Standards

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

The THA will only issue a larger voucher due to additions of family members through birth, adoption, marriage, court-awarded custody, or the addition of an approved co-head.

THA will not add additional members to the household.

Requests based on health related reasons must be verified by a doctor and must qualify through the reasonable accommodation policy.

THA Error

If the PHA errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size.

Changes for Applicants

The voucher size is determined prior to the briefing by comparing the family composition to the THA subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the THA subsidy standards, the above referenced guidelines will apply.

Changes for Participants

The members of the family residing in the unit must be approved by the THA. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the THA within ten (10) days. The above referenced guidelines will apply.

Underhoused and Overhoused Families

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the THA will issue a new voucher of the appropriate size and assist the family in locating a suitable unit.

Pre-merger Certificate Families Only:

If a pre-merger certificate family is occupying a unit which has more bedrooms than allocated under the THA's subsidy standards, and the gross rent exceeds the FMR/Exception Rent for the family size under the THA's subsidy standards, the THA will issue the family a new voucher, of the appropriate size, and assist the family in finding a suitable unit.

Pre-merger certificate families who are under-occupying a unit as defined above will be issued a voucher and given a minimum of sixty days to locate a new unit before assistance is terminated.

In such cases the THA's voucher term extension policy will be applicable.

The THA will also notify the family of the circumstances under which an exception will be granted, such as:

If a family with a disability is under-housed in an accessible unit.

If a family requires the additional bedroom because of a health problem which has been verified by the THA.

Transfer Waiting List

When a change in family composition requires a larger Voucher size and no funds are available, the family will be placed on a Transfer List.

Families will be selected from the Transfer List before families are selected from the applicant waiting list. This assures that families who are already on the program are in the appropriate sized units.

Families will be selected from this list when there is available funding, in the following sequence:

A participant family (whose family composition has been approved by the THA) who requires a change in Voucher size because they are living in a unit which is overcrowded according to Housing Quality Standards.

A participant family (whose family composition has been approved by the THA) who requires a change in Voucher size under the Subsidy Standards, but not under Housing Quality Standards.

All others who require a transfer as determined by the THA.

C. UNIT SIZE SELECTED [24 CFR 982.402(c)]

The family may select a different size dwelling unit than that listed on the Voucher. There are three criteria to consider:

Subsidy Limitation: The family unit size as determined for a family under the THA subsidy standard for a family assisted in the voucher program is based on the THA's adopted payment standards. The payment standard for a family shall be the *lower of*:

The payment standard amount for the family unit size; or

The payment standard amount for the unit size rented by the family.

Utility Allowance: The utility allowance used to calculate the gross rent is based on the lower of the actual size of the unit or family's voucher size. Reasonable accommodation requests for a higher allowance will be considered if requested by a person or family with a disability.

RESOLUTION 2014-3910 approved 09/17/2014

Housing Quality Standards

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

HQS GUIDELINES FOR UNIT SIZE SELECTED

Unit Size	Maximum Number in Household
0 Bedroom	1
1 Bedroom	4
2 Bedrooms	6
3 Bedrooms	8
4 Bedrooms	10
5 Bedrooms	12

Chapter 6

FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

[24 CFR Part 5, Subparts E and F; 982.153, 982.551]

INTRODUCTION

The THA will use the methods as set forth in this Administrative Plan to verify and determine that family income at admission and at annual reexamination is correct. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations.

This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. The THA's policies in this Chapter address those areas which allow the THA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

A. INCOME AND ALLOWANCES [24 CFR 5.609]

Income: Includes all monetary amounts which are received on behalf of the family. For purposes of calculating the Total Tenant Payment, HUD defines what is to be calculated and what is to be excluded in the federal regulations. In accordance with this definition, all income which is not specifically excluded in the regulations is counted.

Annual Income is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or re-certification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

Adjusted Income is defined as the Annual income minus any HUD allowable expenses and deductions.

HUD has five allowable deductions from Annual Income:

Dependent Allowance: \$480 each for family members (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.

Elderly/Disabled Allowance: \$400 per family for families whose head or spouse is 62 or over or disabled.

Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.

Child Care Expenses: Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.

Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

B. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES 24 CFR 5.617, 960.255

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

Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

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

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

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

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

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is

calculated by comparing the amount of the disabled family member's income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

Initial Twelve-Month Exclusion

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

Second Twelve-Month Exclusion and Phase-in

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

EID Lifetime Limit

The new regulatory provisions limit to 24 straight months the time period during which a family member is eligible to receive the benefit of the earned income disregard (EID) for those families that are qualified after the effective date of June 14, 2016.

- Once a family member is determined to be eligible for the EID, the 24–calendar month period starts;
- If the family member discontinues the employment that initially qualified the family for the EID, the 24–calendar month period continues;
- During the 24–calendar month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);
- During the first 12–calendar month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the PHA must exclude from annual income of the family at least 50 percent of any increase in income of such family member as a result of employment over the family member's income before the qualifying event (i.e., the family member's baseline income);
- The EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- At the end of the 24 months, the EID ends regardless of how many months were “used.” The annual income for qualified disabled families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning

on the date on which the increase in earned income begins and continuing for a cumulative 12-month period. After the disabled family receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

Resolution 2016-3997, Adopted 05/18/2016

Applicability to Child Care Expense Deductions

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

Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent. The THA will maintain a tracking system to ensure correct application of the earned income disallowance.

Inapplicability to Admission

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

C. MINIMUM RENT [24 CFR 5.616]

Minimum Rent

"Minimum rent" is \$50.00. Minimum rent refers to the Minimum Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

[Resolution 3367, Adopted 6/25/2004]

Hardship Requests for an Exception to Minimum Rent

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

Criteria for Hardship Exception

In order for a family to qualify for a hardship exception the family's circumstances must fall under one of the following HUD hardship criteria:

The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or local assistance;

The family would be evicted as a result of the imposition of the minimum rent requirement;

The income of the family has decreased because of changed circumstances, including:

Loss of employment

Death in the family

Other circumstances as determined by the PHA or HUD THA Notification to Families of Right to Hardship Exception

The THA will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. "Subject to minimum rent" means the minimum rent was the greatest figure in the calculation of the greatest of 30% of monthly adjusted income, 10% of monthly income, minimum rent or welfare rent.

If the minimum rent is the greatest figure in the calculation of Total Tenant Payment, THA staff will include a copy of the notice regarding hardship request provided to the family in the family's file.

The THA notification will advise families that hardship exception determinations are subject to THA review and hearing procedures.

The THA 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.

The THA will request documentation as proof of financial hardship.

The THA will use its standard verification procedures to verify circumstances which have resulted in financial hardship.

Requests for minimum rent exception must include a statement of the family hardship that qualify the family for an exception.

Suspension of Minimum Rent

The THA will grant the minimum rent exception to all families who request it, effective the first of the following month.

The minimum rent will be suspended until the THA determines whether the hardship is:

Covered by statute

Temporary or long term

"Suspension" means that the THA must not use the minimum rent calculation until the THA has made this decision.

During the minimum rent suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly.

If the THA determines that the minimum rent is not covered by statute, the PHA will impose a minimum rent including payment for minimum rent from the time of suspension.

Temporary Hardship

If the THA determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

The THA will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. (See "Owner and Family Debts to the PHA" chapter for Repayment agreement policy).

Long-Term Duration Hardships [24 CFR 5.616(c)(3)]

If the THA determines that there is a qualifying long-term financial hardship, the PHA must exempt the family from the minimum rent requirements for as long as the hardship continues. The exemption from minimum rent shall apply from the first day of the month following the family's request for exemption.

Retroactive Determination

The THA will reimburse the family for any minimum rent charges which took effect after October 21, 1998 that qualified for one of the mandatory exceptions.

If the family is owed a retroactive payment, the THA will provide reimbursement in the form of a cash refund to the family.

The THA's definition of a cash refund is a check made out to the family.

D. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT
[24 CFR 982.54(d)(10), 982.551]

The THA must compute 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 or the head of the household if that person is temporarily absent, even if that person is not on the lease.

"Temporarily absent" is defined as away from the unit for more than **thirty (30) days**.

Income of persons permanently absent 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 exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The THA will evaluate absences from the unit using this policy.

Absence of Any Member

Any member of the household will be considered permanently absent if s/he is away from the unit for **two (2) consecutive months** except as otherwise provided in this Chapter.

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the THA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than **sixty (60) consecutive days**, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the THA's "Absence of Entire Family" policy.

Absence Due to Full-time Student Status

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

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

Absence due to Incarceration

If the sole member is incarcerated for more than **thirty (30) days** consecutive days, she/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for **sixty (60) days**.

The THA will determine if the reason for incarceration is for drug-related or violent criminal activity.

Absence of Children due to Placement in Foster Care

If the family includes a child or children temporarily absent from the home due to placement in foster care, the PHA will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than **twelve (12) months** of months from the date of removal of the child/ren, the Voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the THA's subsidy standards.

Absence of Entire Family

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

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

Families must notify the THA at least thirty (30) days (one full calendar month) before leaving the unit. If they are going to be absent from the unit for more than thirty (30) consecutive days.

If the entire family is absent from the assisted unit for more than **thirty (30) consecutive days**, the unit will be considered to be vacated and the assistance will be terminated.

If it is determined that the family is absent from the unit, the THA will not continue assistance payments.

HUD regulations require the THA to terminate assistance if 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 THA may:

- Write letters to the family at the unit

- Telephone the family at the unit

- Interview neighbors

- Verify if utilities are in service

- Check with the post office

- Inspect the unit

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar days limit.

If the absence which resulted in termination of assistance was due to a person's disability, and the PHA can verify that the person was unable to notify the THA in accordance with the family's responsibilities, and if funding is available, the THA may reinstate the family as an accommodation if requested by the family, as long as the period was within thirty (30) days.

Caretaker for Children

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the PHA will treat that adult as a visitor for the first **thirty (30)** days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the PHA will review the status at **thirty (30) day** intervals.

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

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

The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made, only if the action is in process.

The THA 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 ninety (90) days/months and it is reasonable to expect that custody will be granted.

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

If a member of the household is subject to a court order that restricts him/her from the home for more than **two (2)** months, the person will be considered permanently absent.

Visitors

Any adult not included on the HUD 50058 who has been in the unit more than **thirty (30) consecutive days** without THA approval, or a total of **sixty (60)** days in a 12-month period, will be considered to be living in the unit as **an unauthorized** household member.

Absence of evidence of any other address will be considered verification that the visitor is a member of the household.

Statements from neighbors and/or the landlord will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the THA will terminate assistance since prior approval was not requested for the addition.

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 for up to **ninety (90) days** per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than **183 days per year**, the minor will be considered to be an eligible visitor and not a family member.

Reporting Additions to Owner and THA

Reporting changes in household composition to the THA is both a HUD and a THA requirement.

The family obligations require the family to request THA approval to add any other family member as an occupant of the unit and to inform the THA of the birth, adoption or court-awarded custody of a child. The family must request prior approval of additional household members in writing.

If the family does not obtain prior written approval from the THA, any person the family has permitted to move in will be considered an unauthorized household member.

In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report it to the PHA in writing within ten (10) days of the maximum allowable time.

Families are required to report any additions to the household in writing to the PHA within ten (10) days of the move-in date.

An interim reexamination will be conducted for any additions to the household.

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court awarded custody.

Reporting Absences to the THA

Reporting changes in household composition is both a HUD and a THA requirement.

If a family member leaves the household, the family must report this change to the THA, in writing, within ten (10) days of the change and certify as to whether the member is temporarily absent or permanently absent.

The THA will conduct an interim evaluation for changes which affect the Total Tenant Payment in accordance with the interim policy.

E. AVERAGING INCOME

When Annual Income cannot be anticipated for a full twelve months, the PHA may:

Annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

If, by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so as to reduce the number of interim adjustments.

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

F. MINIMUM INCOME

Families that report zero income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

If the family's expenses exceed their known income, the THA will make inquiry of the head of household as to the nature of the family's accessible resources.

G. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME

[24 CFR 982.54(d)(10)]

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the PHA will calculate the income by using the following methodology and use the income figure which would result in a lower payment by the family:

1. Exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member

OR

2. Include the income and deductions of the member if his/her income goes to a family member

H. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment.

Any contribution or gift received every **three (3) months** or more frequently will be considered a "regular" contribution or gift. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See "Verification Procedures" chapter for further definition.)

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

I. ALIMONY AND CHILD SUPPORT [24 CFR 5.609]

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment.

If the amount of child support or alimony received is less than the amount awarded by the court, the THA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

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

The THA receives verification from the agency responsible for enforcement or collection.

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

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

J. LUMP-SUM RECEIPTS [24 CFR 5.609]

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

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

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

The THA uses a calculation method which calculates retroactively or prospectively depending on the circumstances.

Prospective Calculation Methodology

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

The entire lump-sum payment will be added to the annual income at the time of the annual.

Retroactive Calculation Methodology

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

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

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

At the THA's option, the THA may enter into a Payment Agreement with the family.

The amount owed by the family is a collectible debt even if the family becomes unassisted.

K. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS [24 CFR 5.603(d)]

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

While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.

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

L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE
[24 CFR 5.603(d)(3)]

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

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

M. CHILD CARE EXPENSES [24 CFR 5.603]

Child care expenses for children under 13 may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment.

Allowability of deductions for childcare expenses is based on the following guidelines:

Child care to work: The maximum child care expense allowed must be less than the amount earned by the person enabled to work which is included in the family's annual income. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

Child care for school: The number of hours claimed for child care may not exceed the number of hours the family member is attending school, including reasonable travel time to and from school, and reasonable study time.

Amount of Expense: The THA will collect data as a guideline. If the hourly rate materially exceeds the guideline, the THA may calculate the allowance using the guideline.

N. MEDICAL EXPENSES [24 CFR 5.609(a)(2), 5.603]

Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.

O. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]

Applicability

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

Prorated Assistance Calculation

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

P. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

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

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

Q. RELATIVE CAREGIVER PAYMENTS

The relative caregiver payments will not be counted as income according to Notice PIH 2008-40, but the member(s) will be coded as a dependent and all other income received on behalf of the child will be counted.

RESOLUTION 2010-3648 approved March 17th

HUD has published PIH Notice 2008-30, July 14, 2008, which provides guidance on the exclusion of benefits paid directly to relatives or legal guardians of those youths who would otherwise enter the foster care system. Currently foster care payments are excluded from annual income calculations through statutory provisions. The purpose of the notice is to reinforce family unification and correlate similar state guardianship programs the same as foster care payments such as the Relative Caregiver payments. Relative Caregivers as defined by the Department of Children and Family Services are those families who have to be within a certain degree of blood relation to the child, have to have a home study, adjudication via court system for each child, and provide current immunization records.

The Tampa Housing Authority will incorporate the guidance of the PIH Notice 2008-30 into the Administrative Plan to exclude payments received on behalf of children who are placed with relatives in lieu of the foster care system. Payments will be excluded upon verification, using the verification steps, of families receiving payments through the Relative Caregiver Program administered by the Department of Children and Family Services.

RESOLUTION 2011-3727 Approved April 20th

However, the THA will reduce the rental contribution if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits; or

A situation where a family member has not complied with other welfare agency requirements; or

A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment, such as the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

Imputed welfare income is the amount of annual income not actually received by a family as a result of a specified welfare benefit reduction that is included in the family's income for rental contribution.

Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction.

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

When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

Verification Before Denying a Request to Reduce Rent

The THA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

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

Amount and term of specified welfare benefit reduction for the family;

Reason for the reduction; and

Subsequent changes in term or amount of reduction.

R. TUITION ASSISTANCE FOR STUDENTS

HUD has published PIH Notice 2015-21 which provides an amendment to the definition of tuition. The definition will now align with the Department of Education's definition of tuition and fees. The Department of Education defines tuition as the amount of money charged to students for instructional services which may be charged per term, course, or per credit. Expenses such as books, room and board, supplies, meal plans, transportation and parking are not included as part of the cost of tuition;

In implementing the amended definition, the THA must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income in accordance with 24 CFR 5.609(b)(9);

For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

RESOLUTION 2016-3997 APPROVED 04/27/2016

S. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24 CFR 982.153, 982.517]

The same Utility Allowance Schedule is used for all tenant-based programs.

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

The THA's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards.

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

The THA must classify utilities in the utility allowance schedule according to the following general categories: space heating, **air conditioning**, cooking, water heating, water, sewer, trash collection; [other electric,] refrigerator (for tenant supplied refrigerator), range (cost of tenant-supplied range); and other specified services.

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.

The majority of housing units in the area with central air conditioning is defined by the THA as more than [ninety five (95%) percent of housing units surveyed based on information gathered from local property owners, newspaper ads, and tele-surveying.

A tenant-paid air conditioning allowance will be provided throughout our jurisdiction. If the THA determines that an air conditioning allowance will be granted in certain areas or throughout the THA's jurisdiction, the air conditioning allowance will only be granted to families in the applicable area when the THA has confirmed that the unit actually has an air conditioner in the unit.

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

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

RESOLUTION 2014-3910 approved 09/17/2014

Where families provide their own range and refrigerator, the THA 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 appliance over a **sixty (60) month period**.

Where the calculation on the HUD 50058 results in a utility reimbursement payment due the family, the THA will provide a Utility Reimbursement Payment for the family each month. The check will be made out:

Directly to the utility company at such time as advised by the Director of Assisted Housing.

PROCEDURAL CLARIFICATION

An adjusted utility allowance is provided to the Board of Commissioners for approval. Staff shall be notified of the changed utility allowance schedule to be used at new lease-up and annual re-certifications only. To alleviate administrative burdens THA will go forward with changes processed on or after the date staff is notified of the approved change.

(Procedural Clarification added to the Adm. Plan on 8/16/04)

Chapter 7

VERIFICATION PROCEDURES

[24 CFR Part 5, Subparts B, D, E and F; 982.108]

INTRODUCTION

HUD regulations require that the factors of eligibility and Total Tenant Payment/Family Share be verified by the THA. Tampa Housing Authority staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible as to why third party verification was impossible to obtain.

Applicants and program participants must provide true and complete information to the THA whenever information is requested. The THA's verification requirements are designed to maintain program integrity. This Chapter explains the THA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. The THA will obtain proper authorization from the family before requesting information from independent sources.

A. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]

Verification Technique Definitions

Upfront Income Verification (UIV) (Level 6/5): The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. It should be noted that the EIV system is available to all PHAs as a UIV technique. PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

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

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

The PHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third party verification form or the best available information.

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

Written Third Party Verification Form (Level 3): Also, known as traditional third party verification. A standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third party source by mail, fax, or email.

It is the Department's position that the administrative burden and risk associated with use of the traditional third party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

The Department recognizes that third party verification request forms sent to third party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third party source to provide false information; or the tenant intercepts the form and provides false information.

The Department requires PHAs to rely on documents that originate from a third party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third party verification request form. The use of acceptable tenant-provided documents, which originate from a third party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

Oral Third Party Verification (Level 2): Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information. This verification method is commonly used in the event that the independent source does not respond to the PHA's faxed, mailed, or e- mailed request for information in a reasonable time frame, i.e., ten (10) business days.

Non-Third Party Verification Technique

Tenant Declaration (Level 1): The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other

verification techniques. When the PHA relies on tenant declaration, the PHA must document in the tenant file why third party verification was not available.

Exceptions to Third Party Verification Requirements

HUD is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the PHA is **required to document in the family file the reason(s) why third party verification was not available.**

The exception to third party verification can be found at 24 CFR §960.259(c)(1) and §982.516(a)(2), which states, “The PHA must obtain and document in the family file third party verification of the following factors, **or must document in the file why third party verification was not available.**”

Third party verification requirements. In accordance with 24 CFR §960.259(c)(1) and 24 CFR §982.516(a)(2) for the Public Housing and the HCV programs, respectively, the PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available: (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income.

Note: Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant. See PIH Notice 2010-03 for guidance on verifying Social Security benefit income through the EIV system.

The PHA may also reduce the administrative burden of obtaining third party verification by relying on acceptable documents that are generated by a third party, but provided by the tenant. Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

When the PHA is required to request written third party verification The PHA must request written third party verification under the following circumstances:

- a.** When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR §5.236(b));
- b.** When the PHA requires additional information that is not available in EIV and /or the tenant is unable to provide the PHA with current acceptable tenant-provided documentation. Examples of additional information, includes but is not limited to:
 - i.** Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
 - ii.** For new employment: pay rate, number of hours worked per week, pay frequency, etc.

iii. Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.)

Note: 24 CFR §5.236(a), prohibits PHAs from taking adverse action based solely on EIV information.

Type of file documentation required to demonstrate PHA compliance with mandated use of EIV as a third party source to verify tenant employment and income information (24 CFR §5.233(a)(2)(i)).

A. For each new admission (form HUD-50058 action type 1), the PHA is required to do the following:

- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
- iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

B. For each historical adjustment (form HUD-50058 action type 14), the PHA is required to do the following:

- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
- iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

C. For each interim reexamination (form HUD-50058 action type 3) of family income and composition, the PHA is required to have the following documentation in the tenant file:

i. ICN Page when there is **no** household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. (PHAs have the discretion to print the EIV Income report, however, only the ICN page is required.) See sample screen shot below.

ii. EIV Income Report when there **is** an income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. printer-friendly ICN page

D. For each annual reexamination of family income and composition, the PHA is required to have the following documentation in the tenant file:

i. No Dispute of EIV Information: EIV Income Report, current acceptable tenant-provided documentation, and ***if necessary*** (as determined by the PHA), traditional third party verification form(s). See examples 1 and 3 below.

ii. Disputed EIV Information: EIV Income report, current acceptable tenant provided documentation, and/or traditional third party verification form(s) for disputed information. See example 2 below.

iii. Tenant-reported income not verifiable through EIV system: Current tenant-provided documents, and *if necessary* (as determined by THA), traditional third party verification form(s).

The PHA may *determine* that the tenant is not in compliance with program requirements and terminate tenancy or assistance, or both, if the tenant fails to provide the requested information in a timely manner (as prescribed by the PHA).

PIH NOTICE 2010-19 ADOPTED BY BOARD RESOLUTION 2010-3687 09/15/2010

B. RELEASE OF INFORMATION [24 CFR 5.230]

Adult family members will be required to sign the HUD 9886 Release of Information/Privacy Act form.

In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

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

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information and to sign consent forms requested by the THA or HUD.

C. COMPUTER MATCHING

For some time, HUD has conducted a computer matching initiative to independently verify resident income. HUD can access income information and compare it to information submitted by PHAs on the 50058 form. 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 this 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 THA receives notification from HUD that a family has been sent an "income discrepancy" letter, the THA will:

Wait 40 days after the date of notification before contacting tenant.

After 40 days following the date of notification, the THA will contact the tenant by mail asking the family to promptly furnish any letter or other notice by HUD concerning the amount or verification of family income.

The THA will fully document the contact in the tenant's file, including a copy of the letter to the family.

When the family provides the required information, the THA will verify the accuracy of the income information received from the family, review the THA's interim recertification policy, will identify unreported income, will charge a retroactive rent as appropriate, and change the amount of the rent or terminated assistance, as appropriate, based on the information.

If the tenant fails to respond to THA:

The THA will ask HUD to send a second letter.

After an additional 40 days, the THA will ask HUD to send a third letter.

After an additional 40 days, the THA will send a letter to the head of household, warning of the consequences if the family fails to contact the THA within two weeks.

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

The THA will ask HUD to send a second letter with a verified address for the tenant.

After 40 days, the THA will contact the tenant family.

If the tenant family still claims they have not received a letter, the THA will ask HUD to send a third letter.

After an additional 40 days, the THA will set up a meeting with the family to complete IRS forms 4506 and 8821.

If the tenant family fails to meet with the THA or will not sign the IRS forms, the THA will send a warning letter to the head of household, notifying the family that termination proceedings will begin within one week if the tenant fails to meet with the THA and/or sign forms.

If tenant does receive a discrepancy letter from HUD:

The THA will set up a meeting with the family.

If the family fails to attend the meeting, the THA will reschedule the meeting.

If the family fails to attend the second meeting, the THA will send a termination warning.

The family must bring the original HUD discrepancy letter to the THA.

If tenant disagrees with the Federal tax data contained in the HUD discrepancy letter:

The THA will ask the tenant to provide documented proof that the tax data is incorrect.

If the tenant does not provide documented proof, the THA will obtain proof to verify the Federal tax data using third party verification.

D. ITEMS TO BE VERIFIED [24 CFR 982.516]

All income not specifically excluded by the regulations.

Full-time student status including High School students who are 18 or over.

Current assets including assets disposed of for less than fair market value in preceding two years.

Childcare expense where it allows an **adult** family member to be employed or to actively seek work, or to further his/her education.

Total medical expenses of all family member 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 for determination of preferences, allowances or deductions.

U.S. citizenship/eligible immigrant status

Social Security Numbers for all family members over 6 years of age or older who have been issued a social security number.

"Preference" status

Marital status when needed for head or spouse definition.

Verification of Reduction in Benefits for Noncompliance:

The THA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance *before* denying the family's request for rent reduction.

Verification of the necessity of a Live-In Aide:

THA is to determine if it is necessary to add a live-in aide to the household composition. This verification must be sent to a knowledgeable, qualified, and competent professional to determine if it necessary to allow the addition of the live-in aide. If it is determined necessary, the THA must also determine the hours of care by a knowledgeable, qualified, and competent professional.

If it has been determined the hours of care are less than 8 hours a day, a live-in aide will not be approved. If it is determined

If a household member requires 24 hour care, 7 days a week, a live-in aide will be approved but the live-in aide will not engage in other outside employment.

If a household member requires more than 8 hours a day assistance, a live-in aide will be approved; however, the live-in aide may engage in other outside employment during hours that do not conflict with the hours required for care. **(Resolution 2009-3589)**

E. EXCLUDED INCOME 24 CFR 5.609(c).

Fully Excluded Income: Income that is fully excluded means the entire amount qualifies to be excluded from the annual income determination. For fully excluded income, the PHA is not required to:

- Verify the income in accordance with the HUD-prescribed verification hierarchy;
- Document in the tenant file why third party verification was not available as required by 24 CFR 960.259(c)(i) and 24 CFR 982.516(a)(2); and
- Report the income in Section 7 of the form HUD-50058.

PHAs may accept an applicant or participant's self-certification as verification of fully excluded income. The PHA's application and reexamination documentation, which is signed by all adult family members, may serve as the self-certification of the fully excluded income. PHAs have the option of elevating the verification requirements if necessary, to determine if a source of income qualifies for a full exclusion.

Examples of common fully excluded income categories that are verifiable through applicant or participant self-certification are:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- Income from a live-in aide.

Partially Excluded Income: Income that is partially excluded means that only a certain portion of the income reported by the family qualifies to be excluded, while the remainder must be included when determining the family's annual income.

For partially excluded income, PHAs are required to:

- Comply with HUD-prescribed verification requirements and all applicable regulations pertaining to the determination of annual income; and
- Report the income in Section 7 of the form HUD-50058. The example below shows how the partially excluded income for a full-time student should be reported on the form HUD-50058.

F. VERIFICATION OF INCOME [24 CFR 982.516]

This section defines the methods the THA will use to verify various types of income.

Employment Income

Verification forms request the employer to specify the:

Dates of employment

Amount and frequency of pay

Date of the last pay increase

Likelihood of change of employment status and effective date of any known salary increase during the next 12 months

Year to date earnings

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

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, the PHA will require the most recent federal income tax statements.

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

Social Security, Pensions, Supplementary Security Income (SSI), Disability Income

Acceptable methods of verification include, in this order:

1. Verifying benefits through the HUD EIV system.
2. Award or benefit notification letters or computer report electronically obtained or in hard copy.

Unemployment Compensation

Acceptable methods of verification include, in this order:

1. Upfront verification
2. Computer report electronically obtained or in hard copy or payment stubs.

Welfare Payments or General Assistance

Acceptable methods of verification include, in this order:

1. Upfront verification
2. Computer-generated Notice of Action or Electronic.

Alimony or Child Support Payments

Acceptable methods of verification include, in this order:

1. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
2. A notarized letter from the person paying the support.
3. Copy of latest check and/or payment stubs from Court Trustee. THA must record the date, amount, and number of the check.
4. Family's 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 a divorce decree stating the amount and type of support and payment schedules.

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

A notarized affidavit from the family indicating the amount(s) received.

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

A written statement from an attorney certifying that a collection or enforcement action has been filed.

Net Income from a Business

In order to verify the net income from a business, the THA will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Acceptable methods of verification include:

1. IRS Form 1040, including:
Schedule C (Small Business)

Schedule E (Rental Property Income)

Schedule F (Farm Income)

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

2. Audited or unaudited financial statement(s) of the business.
3. Credit report or loan application.
4. Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.
5. Family's self-certification as to net income realized from the business during previous years.

Child Care Business

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

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

If the family has filed a tax return, the family will be required to provide it.

The THA will conduct interim reevaluations every sixty (60) days and require the participant to provide a log with the information about customers and income.

If childcare services were terminated, a third-party verification will be sent to the parent whose child was cared for.

Recurring Gifts

The family must furnish a self-certification which contains 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

Fixed Sources of Income 24 CFR 960.257, 982.516

THA will verify fixed income every three years at which time the verification of the fixed income must be obtained. Upon request of the family, THA will perform third-party verification of all income sources.

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 payments.

The determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained. The provision is not available for program applicants; in the initial year in which a streamlined income determination is made, the COLA must be applied to a source of income that has been verified previously.

THA will determine the source of income that is considered fixed by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the source is fixed. THA will document in the files how the determination that a source of income is fixed.

For the second income determination involving a family member whose income was adjusted previously using a streamlined income determination, the adjustment would be made to the previously determined income amount (i.e., in year two, the COLA is applied to the year one 10 income amount, as previously adjusted by a COLA). For any family member whose income is determined pursuant to a streamlined income determination, third-party verification of all income amounts for all family members must be performed at least every three years. If a family member with a fixed income source is added to the family during year two, then the PHA must obtain third-party verification of all income amounts for that family member at the next reexamination if the PHA wishes to have all family members with fixed incomes on the same schedule with respect to streamlined annual reexaminations.

RESOLUTION 2016-3997 approved 05/18/2016

Zero Income Status

Families claiming to have no income will be required to execute verification forms to determine that forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

The THA will request information from the State Employment Development Department as well as the IRS.

The THA will run a credit report if information is received that indicates the family has an unreported income source.

Full-time Student Status

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

Financial aid, scholarships and grants are not counted towards family income.

Verification of full time student status includes:

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

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

G. INCOME FROM ASSETS [24 CFR 982.516]

Savings Account Interest Income and Dividends

Acceptable methods of verification include:

1. Three months worth of consecutive account statements, passbooks, certificates of deposit, or THA verification forms completed by the financial institution.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution, provided that the THA must adjust the information to project earnings expected for the next 12 months.

Interest Income from Mortgages or Similar Arrangements

Acceptable methods of verification include, in this order:

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

Net Rental Income from Property Owned by Family

Acceptable methods of verification include, in this order:

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

H. VERIFICATION OF ASSETS

Family Assets

The THA will require the information necessary to determine the current cash value of the family's assets, (the net amount the family would receive if the asset were converted to cash).

Acceptable verification may include any of the following:

Verification forms, letters, or documents from a financial institution or broker.

Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.

Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.

Real estate tax statements if the approximate current market value can be deduced from assessment.

Financial statements for business assets.

Copies of closing documents showing the selling price and the distribution of the sales proceeds.

Appraisals of personal property held as an investment.

Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

Family Declaration of Assets less than \$5,000 24 CFR §§960.259, 982.516

THA must obtain third-party verification of all family assets upon admitting a family to the HCV program and then again at least every 3 years thereafter for annual and interim examinations. During the intervening annual reexaminations, THA will accept a family's declaration that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. THA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. The total amount of income expected from all assets must be less than or equal to \$5,000. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

Where the family has net family assets in excess of \$5000, the PHA 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.

Resolution 2016-3997 approved 05/18/2016

As of March 31, 2015- Notice 2013-03 has expired and is no longer valid. RESOLUTION 2013-3817 approved 02/20/2013

Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification

For all Certifications and Re-certifications, the THA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or re-certification.

If the family certifies that they have disposed of assets for less than fair market value, verification certification is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

I. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME

[24 CFR 982.516]

Child Care Expenses

Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.

Verifications 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 school and vacation periods.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

Medical Expenses

Families who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance 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 of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

For attendant care:

A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.

Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.

Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.

Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.

Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. THA 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.

The THA will use mileage at the rate in personnel policies, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Emotional Support vs Service Dogs

Under the American Disabilities Act (ADA) and Florida law, if your dog is a service animal — an animal that has been trained to provide certain tasks for someone with a mental, physical, sensory, psychiatric or intellectual disability — then this is considered an allowable medical expense. A service animal must have received specialized training to respond to a particular disability. These laws, however, do not apply to emotional support animals. An emotional support dog is not trained to provide a service, even though there is no discounting the fact that he or she is providing an enormous comfort for a stressed owner. Emotional support animals, however, are covered under the Fair Housing Act, and no training is required. A doctor or mental health care professional must determine the need of the emotional support animal for a mental health disability.

Assistance to Persons with Disabilities [24 CFR 5.611(c)]

In All Cases:

Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.

Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

Attendant Care:

Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.

Certification of family and attendant and/or copies of canceled checks family used to make payments.

Auxiliary Apparatus:

Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.

In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

J. VERIFYING NON-FINANCIAL FACTORS [24 CFR 982.153(b)(15)]

Verification of Legal Identity

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

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

Certificate of Birth, naturalization papers

Church issued baptismal certificate, for elderly.

Current, valid Driver's license

U.S. military discharge (DD 214)

VA verified Application for Health Benefits (10-10ez)

U.S. passport

Voter's registration

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

Certificate of Birth

Adoption papers

Custody agreement

Verification of Marital Status

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

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

Verification of marriage status is a marriage certificate.

Familial Relationships

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will always be required if applicable:

Verification of relationship:

Official identification showing names

Birth Certificates

Verification of guardianship is:

Court-ordered assignment as listed:

Adoption orders

Dependency court orders

Temporary Guardianship

Shelter Order

Child Support Order

Verification from social services agency

Power of Attorney through legal system

Resolution 2008-3572

Verification of Permanent Absence of Family Member

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

Husband or wife institutes divorce action.

Husband or wife institutes legal separation.

Order of protection/restraining order obtained by one family member against another.

Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.

Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.

If the adult family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated.

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

Verification of Change in Family Composition

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

Verification of Disability

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

Verification of Citizenship/Eligible Immigrant Status [24 CFR 5.508, 5.510, 5.512, 5.514]

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

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

The THA will require citizens to provide documentation of citizenship.

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

United States birth certificate

United States passport

Resident alien/registration card

Social Security card

Other appropriate documentation as determined by the THA

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

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The PHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the PHA must request within ten days that the INS conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

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

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

Time of Verification

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

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

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

For family members added after other members have been verified, the verification occurs at the time after the new member moves in.

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

Extensions of Time to Provide Documents

The THA will grant an extension of thirty (30) days for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration

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

Resident Alien Card (I-551)

Alien Registration Receipt Card (I-151)

Arrival-Departure Record (I-94)

Temporary Resident Card (I-688)

Employment Authorization Card (I-688B)

Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

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

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

If the THA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated, unless the ineligible individual has already been considered in prorating the family's assistance.

Verification of Social Security Numbers [24 CFR 5.216]

Social security numbers must be provided as a condition of eligibility for all family members if they have been issued a number. Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration. If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the Social Security Card information provided is/are complete and accurate:

Identification card issued by a Federal, State or local agency

Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)

An identification card issued by an employer or trade union

An identification card issued by a medical insurance company

Earnings statements or payroll stubs

Bank Statements

IRS Form 1099

Benefit award letters from government agencies

Retirement benefit letter

Life insurance policies

Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records

Verification of benefits or Social Security Number from Social Security Administration

VA verified Application for Health Benefits (10-10ez)

New family members ages six and older will be required to produce their Social Security Card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the THA.

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the PHA. The applicant/participant or family member will have an additional **ten (10) days** to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the THA may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

Medical Need for Larger Unit

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional. THA must complete an inspection within 60 days of the unit to determine if the bedroom is being used as documented by the certification.

J. VERIFICATION OF WAITING LIST PREFERENCES [24 CFR 5.410-5.430]

1. Chronic homelessness – 10 pts
2. Homelessness - 5 pts
3. Disabled/Elderly - 5 pts
4. Working/Education Preference – 5 pts

Preferences defined:

1. Chronically homeless will receive a preference point of 10 points:

Chronically homeless families are defined as “either (1) an unaccompanied homeless individual or family with a disabling condition and is considered disabled and who has been continuously homeless for a year or more, OR (2) an individual or family with a disabling condition and considered disabled and who has had at least four episodes of homelessness in the past three years. Homelessness is defined as a person sleeping in a place not meant for human habitation (e.g. living on the streets, for example) OR living in a homeless emergency shelter. A qualifying agency must be able to verify the instances of homelessness. Qualifying agency is one that works directly with the homeless and disabled population on a daily basis and one which that provides some type of supportive service to the family. If the instances of homelessness cannot be verified, the family will not qualify for this preference.

Families who meet this definition must also be receiving supportive services from a qualified agency. A qualified agency is one that provides supportive services to this specific population daily and on a continuous basis. The family meets both of the requirements the family will receive the preference points. Families must maintain case management services while participating on the program unless discharged by the partnering agency as completed.

This preference will receive higher weight than any other local preference. There will be an allotment of 60 vouchers total and will be issued at a rate of 5 per month (24 CFR 982.207(a)(3) • HUD authorizes PHAs to limit the number of applicants that may qualify for any local preference.) Once those vouchers are filled, the only time another slot will be available will be through attrition. Slot must be filled by replacing with a chronically homeless individual and or family. Once the cap is met, and enough individuals are on the waitlist that meet the preference, THA may close the waitlist without notice. If a chronically homeless family is not available during that month to fill the 5 per month cap, it will not aggregate, e.g., only 4 families were eligible to receive vouchers for a month, that 5th voucher slot will be issued to any eligible person on the tenant based waitlist.

Project Based Waitlist for the chronically homeless will be treated on a referral basis from the owner and or manager of the specific property. Families who only meet the definition of chronically homeless will be placed on this specific waitlist and any other project based programs specific to the chronically homeless.

2. Homelessness will receive a preference point of 5

People who are living in a place not meant for human habitation, in emergency shelter, in transitional housing, or are exiting an institution where they temporarily resided. People will be considered homeless if they are exiting an institution where they resided for up to 90 days and were in shelter or a place not meant for human habitation immediately prior to entering that institution.

People who are losing their primary nighttime residence, which may include a motel or hotel or a doubled up situation, within 14 days of eligibility determination and lack resources or support networks to remain in housing. Support networks would be considered employment, unearned income, friends, relatives, or transportation.

Families with children or unaccompanied youth (18 years old or emancipated) who are unstably housed and likely to continue in that state. Families with children or unaccompanied youth (18

years old or emancipated) who have not had a lease or ownership interest in a housing unit in the last 60 or more days, have had two or more moves in the last 60 days, and who are likely to continue to be unstably housed because of disability or multiple barriers to employment.

People who are fleeing or attempting to flee domestic violence, have no other residence, and lack the resources or support networks to obtain other permanent housing. Incidence of domestic violence must be verifiable either through police reports, social service organization, or some other source that THA deems as reliable. The PHA will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home.

The following criteria are used to establish a family's eligibility for this preference:

Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family.

The actual or threatened violence must have occurred within the past sixty (60) days or be of a continuing nature. To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless the THA gives prior written approval.

The THA will approve the return of the abuser to the household under the following conditions:

The THA verifies that the abuser has received therapy or counseling that appears to minimize the likelihood of recurrence of violent behavior.

A counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.

If the abuser returns to the family without approval of the THA, the THA will deny or terminate assistance for breach of the certification.

3. Disabled or Elderly will receive a preference point of 5

This preference is extended to persons or families where the head of household, spouse or co-head is elderly or disabled. Proof of preference will be required at time of selection. [HUD regulations prohibit admission preferences for specific types of disabilities.]

4. Working Preference of 5 points

Families with at least one adult who head, spouse, or co-head employed for at least 28 hours per week or who are active participants at least 30-40 hours a week in accredited post-secondary educational program or local training programs designed to prepare the individual for the job market. Employment must be verifiable and must have been employed at least one month prior to the date of the initial eligibility intake interview letter. Employment cannot be counted if it is after the date on the eligibility letter. This preference is automatically extended to elderly families or families whose head or spouse is receiving income based on their inability to work.

Families who receive this preference do not have the option of quitting employment unless the family has another employer.

Lottery

The waitlist will always be maintained by a lottery system and not through date and time. The lottery system is generated using an automatic computer program through the agency's software.

Once the preferences have been exhausted families will be pulled based on their position on the waitlist as placed by lottery.

All preferences must meet the definitions outlined in the plan and MUST be verifiable by a source deemed reliable by the THA. Families could qualify for all preferences. All preferences will be of equal weight except for the chronically homeless which will receive a preference of 10 points and will be capped at 60 vouchers per year or 5 vouchers per month.

These preferences will be applied to all current and future waitlists. All applicants who are on the lists will be given the option to change their preference when the preferences are approved by the board and after public comment. All changes in preferences will either be done electronically and or in writing.

Electronically refers to the family updating his or her application online as allowed and instructed by the agency.

Treatment of Single Applicants

Singles Preference (This is HUD's former singles preference from 5.405)

Applicants who are elderly, disabled, or homeless families of no more than two person families will be given a selection priority over all "Other Single" applicants regardless of preference status. "Other Single" denotes a one-person household in which the individual member is not elderly or disabled, Such applicants will be placed on the waiting list in accordance with any other preferences to which they are entitled, but they cannot be selected for assistance before any one or two person elderly, disabled or homeless family regardless of preferences.

RESOLUTION 2013-3818 approved 02/20/2013

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

INTRODUCTION

The THA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the THA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, THA procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

A. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, the THA will issue Vouchers to applicants whose eligibility has been determined. The number of Vouchers issued must ensure that the THA stays as close as possible to 100 percent lease-up. The THA performs a monthly calculation [electronically /manually] to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the PHA can over-issue (issue more Vouchers than the budget allows to achieve lease-up).

The THA may over-issue Vouchers only to the extent necessary to meet leasing goals. All Vouchers which are over-issued must be honored. If the THA finds it is over-leased, it must adjust future issuance of Vouchers in order not to exceed the ACC budget limitations over the fiscal year.

B. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301]

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups and individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to Housing Specialists.

Briefings will be conducted in English. Briefings will also be conducted in Spanish as needed.

The purpose of the briefing is to explain how the program works and the documents in the Voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The THA will not issue a Voucher to a family unless the household representative has attended a briefing and signed the Voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend **two (2)** scheduled briefings, without prior notification and approval of the THA, may be denied admission based on failure to supply information needed for certification. The THA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

Briefing Packet [24 CFR 982.301(b)]

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

The family is provided with the following information and materials

The term of the voucher, and the THA policy for requesting extensions or suspensions of the voucher (referred to as tolling).

A description of the method used to calculate the housing assistance payment for a family, including how the THA determines the payment standard for a family; how the THA determines total tenant payment for a family and information on the payment standard and utility allowance schedule. How the THA determines the maximum allowable rent for an assisted unit.

Where the family may lease a unit. For family that qualifies to lease a unit outside the THA jurisdiction under portability procedures, the information must include an explanation of how portability works.

The HUD required tenancy addendum, which must be included in the lease.

The Request for Approval of Tenancy form, and a description of the procedure for requesting approval for a unit.

A statement of the THA policy on providing information about families to prospective owners.

The THA Subsidy Standards including when and how exceptions are made and how the voucher size relates to the unit size selected.

The HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.

The HUD brochure on lead-based paint and information about where blood level testing is available.

Information on federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form. The THA will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines, such as the

"take one, take all" law and the phone numbers of the local fair housing agency and the HUD enforcement office.

A list of landlords or other parties willing to lease to assisted families or help in the search. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.

If the family includes a person with disabilities, notice that the THA will provide a list of available accessible units known to the THA.

The Family Obligations under the program.

The grounds on which the THA may terminate assistance for a participant family because of family action or failure to act.

THA informal hearing procedures including when the THA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

Information packet including an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability. (required for Housing Authorities in MSA's)

A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families. (required for Housing Authorities in MSA's)

Information regarding the THA's outreach program which assists families who are interested in, or experiencing difficulty in obtaining available housing units 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. (required for Housing Authorities in MSA's)

Procedures for notifying the THA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.

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

Requirements for reporting changes between annual recertifications.

Information on security deposits and legal referral services.

Exercising choice in residency

Choosing a unit carefully and only after due consideration.

The Family Self Sufficiency program and its advantages.

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

Move Briefing

A move briefing will be held for participants who will be reissued a Voucher to move, and who have been re-certified within the last 120 days, and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families.

Owner Briefing (Workshops)

Briefings are held for owners and are mandatory effective October 1, 2010. All new owners receive a personal invitation and current owners are notified by local print. Prospective owners are welcome. The purpose of the briefing is to assure successful owner participation in the program. The briefing covers the responsibilities and roles of the three parties.

Interested owners who request to sit in on scheduled family briefings to obtain information about the Voucher program will be allowed to do so if the request is made within ten (10) days of the scheduled briefing.

C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION

At the briefing, families are encouraged to search for housing in non-impacted areas and the THA will provide assistance to families who wish to do so.

The THA has areas of poverty and minority concentration clearly delineated in order to provide families with information and encouragement in seeking housing opportunities outside highly concentrated areas.

The THA has maps that show various areas and information about facilities and services in neighboring areas such as schools, transportation, and supportive and social services.

The THA will investigate and analyze when Voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

The assistance provided to such families includes:

- Direct contact with landlords.

- Counseling with the family.

- 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

D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

The THA will give participants a copy of HUD form 903 to file a complaint.

E. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]

Leases Effective Prior to October 2, 1995

The amount of Security Deposit which could have been collected by owners under contracts effective prior to October 2, 1995 is:

Under the pre-merger Certificate Program, the owner could have collected a Security Deposit in an amount not to exceed Total Tenant Payment or \$50.00, whichever is greater, for non-lease-in-place families.

For the pre-merger Voucher Program, the owner, at his/her discretion, could have collected a Security Deposit in an amount not to exceed (THA policy):

The greater of 30% of adjusted monthly income or \$50 for non-lease-in-place families.

The amount charged to unassisted tenants up to a maximum of (amount not to exceed one months rent) (Rent to Owner) (may not exceed the maximum allowed under state or local law.)

The greater of 30% of adjusted monthly income or [amount].

Leases Effective on or after October 2, 1995

The owner is not required to but may collect a (one) security deposit from the tenant.

Security deposits charged to families may be any amount the owner wishes to charge, (subject to the following conditions:)

Security deposits charged by owners may not exceed those charged to unassisted tenants (nor the maximum prescribed by State or local law) and may not exceed one month's rent.

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

F. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)]

During the briefing session, each household will be issued a Voucher which represents a contractual agreement between the THA and the Family specifying the rights and responsibilities

of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

Expirations

The Voucher is valid for a period of **at least 90 calendar days** from the date of issuance. The family must submit a Request for Tenancy Approval and a copy of the sample lease within the 90 day period unless an extension has been granted by the THA.

If the Voucher has expired, and has not been extended by the THA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit **if** there is an assisted lease/contract in effect.

Suspensions

When a Request for Approval of Tenancy is received, the THA **will** deduct the number of days required to process the request from the 90 day term of the voucher.

Extensions

The THA will extend the term **up to 180 days** from the beginning of the initial term if the family needs and request an extension. If as a reasonable accommodation, the family needs an extension in excess of 180 days, the THA may grant such approval in accordance with the policies outlined for reasonable accommodations.

A family may request for an extension of the Voucher time period. All requests for extensions must be received prior to the expiration date of the Voucher.

Extensions are permissible and will be extended in 30 day increments based on one of the following reasons:

Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial ninety-day period. Verification is required.

The THA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the THA, throughout the initial ninety-day period. A completed search record is required.

The family was prevented from finding a unit due to disability accessibility requirements or large size bedroom unit requirement. A completed search record is required.

Resolution 2017-4048 approved March 15th, 2017

Assistance to Voucher Holders

Families who require additional assistance during their search may call the THA Office to request assistance. Voucher holders will be notified at their briefing session that the THA refers owners to an outside listing firm to list units.

The THA will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS 24 CFR 982.315]

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Director of Assisted Housing or their designee shall consider the following factors to determine which of the families will continue to be assisted:

Which of the two new family units has custody of dependent children.

Which family member was the head of household when the Voucher was initially issued (listed on the initial application).

The composition of the new family units, and which unit contains elderly or disabled members.

Whether domestic violence was involved in the breakup.

Which family members remain in the unit.

Recommendations of social service professionals.

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

If documentation is not provided, the THA will terminate assistance on the basis of failure to provide information necessary for a re-certification.

H. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER [24 CFR 982.315]

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

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

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

The court has to have awarded emancipated minor status to the minor, or

The THA has to have 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(ren) for an indefinite period.

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

Chapter 9

REQUEST FOR APPROVAL OF TENANCY AND CONTRACT EXECUTION

[24 CFR 982.302]

INTRODUCTION [24 CFR 982.305(a)]

The THA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The THA's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the THA, or outside of the THA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the THA. This Chapter defines the types of eligible housing, the THA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests For Approval of Tenancy (RFAT).

A. REQUEST FOR APPROVAL OF TENANCY [24 CFR 982.302, 982.305(b)]

The Request for Approval of Tenancy (RFAT) and a copy of the proposed Lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the Request for Approval of Tenancy in the form and manner required by the PHA.

The Request for Approval of Tenancy must be signed by both the owner and Voucher holder.

The THA will not permit the family to submit more than one RFAT at a time.

The THA will review the proposed lease and the Request for Approval of Tenancy documents to determine whether or not they are approvable. The Request will be approved if:

The unit is an eligible type of housing

The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)

The rent is reasonable

The Security Deposit is approvable in accordance with any limitations in this plan.

The proposed lease complies with HUD and PHA requirements (See "Lease Review" section below).

The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below). In addition to the above, at the time a family initially receives assistance (new admissions and moves), the family share of rent may not exceed 40 percent of the family monthly adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

Disapproval of RFAT

If the THA determines that the Request cannot be approved for any reason, the landlord and the family will be notified in writing. The PHA will instruct the owner and family of the steps that are necessary to approve the Request.

The owner will be given ten (10) calendar days to submit an approvable RFAT from the date of disapproval.

When, for any reason, an RFAT is not approved, the THA will furnish another RFAT form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353, 982.54(d)(15)]

The THA will approve any of the following types of housing in the Voucher program:

All structure types can be utilized.

Manufactured homes where the tenant leases the mobile home and the pad, only as a reasonable accommodation.

Units owned (but not subsidized) by the THA (following HUD-prescribed requirements).

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development.

The THA may not permit a Voucher holder to lease a unit which is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

C. LEASE REVIEW [24 CFR 982.308]

The THA will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State and local law. The tenant also 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 on the Request For Approval of Tenancy.

The family and owner must submit a standard form lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with State and local law.

The lease must specify:

The names of the owner and tenant, and

The address of the unit rented (including apartment number, if any), and

The amount of the monthly rent to owner, and

The utilities and appliances to be supplied by the family.

The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

The lease must provide that drug-related violent criminal activity engaged in the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.

The lease must also provide that owner may evict family when the owner determines that:

Any household member is illegally using a drug; or

A pattern of illegal use of drug by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

The lease must provide that the following types of criminal activity by a "covered person" are grounds to terminate 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 the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or

Any violent criminal activity on or near the premises by a tenant, household member, or guest; or

Any violent criminal activity on the premises by any other person under the tenant's control.

The lease must provide that the owner may terminate tenancy if a tenant is:

Fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees (high misdemeanor in NJ); or

Violating a condition of probation or parole imposed under Federal or State law.

House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the THA to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

Actions Before Lease Term

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

The THA has inspected the unit and has determined that the unit satisfies the HQS;

The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;

The THA has approved leasing of the unit in accordance with program requirements

When the gross rent exceeds the applicable payment standard for the family, the THA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

D. SEPARATE AGREEMENTS

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the THA.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the THA. If agreements are entered into at a later date, they must be approved by the PHA and attached to the lease.

The THA will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

E. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]

See "Housing Quality Standards and Inspections" chapter of this Administrative Plan.

F. RENT LIMITATIONS [24 CFR 982.507]

The THA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

By accepting each monthly housing assistance payment from the THA, 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 is required to provide the THA with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the THA.

G. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]

In any of the programs, if the proposed Gross Rent is not reasonable, at the family's request, the THA will negotiate with the owner to reduce the rent to a reasonable rent.

At the family's request, the THA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, the THA will continue processing the Request for Approval of Tenancy and Lease. If the revised rent involves a change in the provision of utilities, a new Request for Approval of Tenancy must be submitted by the owner.

If the owner does not agree on the Rent to Owner after the THA has tried and failed to negotiate a revised rent, the THA will inform the family and owner that the lease is disapproved.

H. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the THA will furnish prospective owners who request the family's address information from the THA with the family's current address as shown in the THA's records and, if known to the THA, the name and address of the landlord at the family's current and prior address.

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

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

The THA will provide documented information regarding tenancy history for the past to prospective landlords.

The THA will furnish prospective owners with information about the family's rental history, or any history of drug trafficking.

The THA will provide the following information, based on documentation in its possession:

- Eviction history

- Damage to rental units

- Other aspects of tenancy history, such as lease violations

- Drug Trafficking by family members

The information will be provided for the last three (3) years.

The information will be provided orally or in writing.

Only the Section 8 Counselors may provide this information. The THA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

I. OWNER DISAPPROVAL [24 CFR 982.306]

See Chapter on "Owner Disapproval and Restriction."

J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE

When the family reports changes in factors that will affect the Total Family Share prior to the effective date of the HAP contract at admission, the information will be verified and the Total Family Share will be recalculated. If the family does not report any change, the THA need not obtain new verifications before signing the HAP Contract, even if verifications are more than 60 days old.

K. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]

The THA prepares the Housing Assistance Contract and lease for execution. The family and the owner will execute the Lease agreement, and the owner and the THA will execute the HAP

Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The THA will retain a copy of all signed documents.

The THA makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

The following THA representative(s) is/are authorized to execute a contract on behalf of the THA: Director of Assisted Housing and Housing Program Managers.

Owners must provide the current address of their residence (not a Post Office box). If families 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 and a copy of their Driver's License or other photo identification.

Owners must also submit proof of ownership of the property, such as a Grant Deed or Tax Bill, and a copy of the Management Agreement if the property is managed by a management agent.

The owner must provide a home telephone number and business number if applicable.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The THA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

L. CHANGE IN OWNERSHIP

See "Owner Disapproval and Restriction" chapter. Reserved

Chapter 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

INTRODUCTION

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

The THA will inspect each unit under contract at least annually. The THA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the THA's required standards and to assure consistency in the THA's program. This Chapter describes the THA's procedures for performing HQS and other types of inspections, and THA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and THA requirements. (See the additions to HQS listed under "Acceptability Criteria and Exceptions to HQS" later in this chapter.)

Any reference to THA and inspections will also pertain to any entity hired to conduct Housing Quality Standard Inspections.

GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The THA will not promote any additional acceptability criteria which is likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service prior to the effective date of the HAP contract. If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whomever is responsible for the utilities according to the RFAT) to have the utilities turned on. The tenant will certify that the utilities are on and provide receipt.

If the tenant is responsible for supplying the stove and/or the refrigerator, the THA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify that the appliances are in the unit and working. The THA will not conduct a re-inspection.

There are five types of inspections the THA will perform:

1. Initial/Move-in: Conducted upon receipt of Request for Approval of Tenancy.
2. Annual: Must be conducted within twelve months of the last annual inspection.

3. Move-Out/Vacate (for pre 10/2/95 contracts where there could be damage claims)
4. Special/Complaint: At request of owner, family or an agency or third-party.
5. Quality Control

A. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timely Initial HQS Inspection

The THA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination **within fifteen (15) days** after the family and the owner have submitted a request for approval of tenancy.

The same fifteen (15) day clock will be suspended during any period when the unit is not available for inspection.

The THA will include “date unit available for inspection” on the RFAT form. This date will determine whether the THA will be required to meet the same **fifteen (15) day** requirement or whether the THA will suspend the same **fifteen (15) day** period because the unit is not available for inspection until after the same **fifteen (15) day** period.

For file audit purposes, the THA will note in each tenant file, the date on which the unit first became available for inspection according to information obtained from the RFAT.

The THA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 days unless the Director or Asst. Director determines that it is unable to do so in the stated timeframe, in which case the file will be appropriately documented.

The THA will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service.

The THA will periodically review of the average time required for a family and owner to have a unit inspected from the time the RFAT is submitted by the family and owner to the THA.

If the THA determines after a review of files that the average time for a family and owner to obtain an initial inspection is longer than 15 days, the THA will review staffing needs relevant to HQS inspection.

The Initial Inspection will be conducted to:

Determine if the unit and property meet the HQS defined in this Plan.

Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.

Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the owner will be rescheduled in 14 days.

If the unit fails the initial HQS inspection for non-life threatening issues only, with the agreement of the family, THA may approve the assisted tenancy, execute the HAP contract, and make housing assistance payments. If the non-life threatening conditions are not corrected within 30 days of the PHA notifying the owner of the unit, in writing, of the unit's failure to comply with HQS, the PHA must withhold any further assistance payments until those conditions are addressed and the unit is in compliance with the housing quality standards. After the 30-day correction period has passed and the unit has not passed the inspection, the PHA will withhold payment for 30 days. If at that time the owner does not make the necessary repair, the unit will be abated the 1st of the following month of the final failed inspection. Withheld payments will be reimbursed to the owner once the unit passes an inspection. This rule will apply to all initial inspections conducted by the agency or by the contracted third party.

If the initial inspection on the unit identifies one or more non-life-threatening deficiencies, the family will receive a list of the deficiencies and offer the family the opportunity to decline to enter into the assisted lease without losing the voucher. THA will notify the family that if the owner fails to correct the non-life-threatening deficiencies within the PHA-specified time period, the PHA will terminate the HAP contract, which in turn terminates the assisted lease, and the family will have to move to another unit in order to receive voucher assistance.

RESOLUTION 2017-4053 approved May 10th, 2017

On an initial inspection, other than for non-life threatening issues the owner will be given up to thirty (30) days to correct the items noted as Fail, at the Inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed one re-inspection for repair work to be completed.

If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

B. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

The THA conducts an inspection in accordance with Housing Quality Standards at least annually, so that the inspections are conducted at least annually. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the tenant is responsible.

The family must allow the THA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.51 (d)]

Inspections will be conducted on business days only.

Reasonable hours to conduct an inspection are between 8:00 a.m. and 5:00 p.m., unless otherwise arranged.

The THA will notify the family in writing or by phone at least two (2) days prior to the inspection, whenever possible.

Inspection: The family and sometimes owner are notified of the date and time of the inspection appointment by mail or phone. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within fifteen (15) days.

If the family does not contact the THA to reschedule the inspection, or if the family misses the inspection appointments the THA will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan. The family will not be allowed to miss appointments without violating a family obligation, unless they reschedule.

Reinspection: The family is provided a notice of the inspection appointment by mail or phone. If the family is not at home for the re-inspection appointment, a card will be left at the unit and another appointment must be scheduled. The appointment letter contains a warning of abatement (in the case of owner responsibility), and a notice of the owner's responsibility to notify the family.

The family is also notified that it is a Family Obligation to allow the THA to inspect the unit. If the family was responsible for a breach of HQS identified in the "Denial or Termination of Assistance" chapter of this Administrative Plan, they will be advised of their responsibility to correct.

Biennial Inspections

Effective October 1st, 2017, THA will schedule units on a biennial basis if at the annual HQS inspection the unit passes the **first time**. All other units that do not pass the first time, will remain on the annual inspection schedule.

Examples: Unit A is scheduled for the annual HQS inspection and the first visit to the unit is May 1st 2017. At the first visit, the unit passes the inspection; therefore, the unit would not be re-inspected until May 2019.

Unit B is scheduled for an annual HQS inspection June 1st. The unit did not pass the HQS inspection the first time; therefore, the unit is not eligible for the biennial inspection and must be re-inspected the following year

Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. (See Emergency Repair Items section.) (Annual inspections)

For non-emergency items, repairs must be made within 30 days.

For major repairs, the Director of Assisted Housing or his/her designee may approve an extension beyond 30 days.

Rent Increases

Rent to owner increases may not be approved if the unit is in a failed condition.

C. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(c)]

If at any time the family or owner notifies the THA that the unit does not meet Housing Quality Standards, the THA will conduct an inspection.

The THA may also conduct a special inspection based on information from third parties such as neighbors or public officials.

The THA will inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs. The responsible party will be required to complete all the repairs within 15 days of failing inspection.

If the annual inspection date is within thirty (30) days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

D. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

Quality Control inspections will be performed by the Inspection Manager on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.

E. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)]

Local Codes [24 CFR 982.401(a)(4)]

Additions

Electrical:

Electrical receptacles shall have ground fault circuit interrupter (GFCI) protection when located in bathrooms, kitchens (where receptacles are installed to service the countertop surfaces, and wet bar sinks (where receptacles are installed to serve the countertop surfaces and are located within 6 ft of the outside edge of the wet bar sink.)

Electrical receptacles shall have ground fault circuit interrupter (GFCI) protection when located within 20 feet of the inside wall of a pool or fountain, indoor or outdoor installations.

All electrical receptacles installed on the exterior of a structure or dwelling shall have ground fault circuit interruption (GFCI) protection. **(Resolution 2007-3528)**

Walls:

In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced.

Any exterior or interior surfaces with peeling or chipping paint must be scraped and painted with two coats of unleaded paint or other suitable material using safe work practices.

Windows:

All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather stripped as needed to ensure a watertight seal.

Window screens must be in good condition. (Applies only if screens are present)

Any room for sleeping must have a window.

Doors:

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

If the only fail item is a door sweep, then the agency will allow the owner and client to submit a form within 30 days for an annual and 15 for a reinspection verifying the repair was completed. **Resolution 2012-3769**

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors:

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state (no plywood).

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe may be used for kitchens and bathrooms.

Sinks:

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

Requirement to have a sink stopper removed per **Resolution 2012-3769**

Security:

If window security bars or security screens are present on emergency exit window, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Owners are responsible for providing and replacing old batteries for battery powered units. Tenants will be instructed not to tamper with smoke detectors or remove batteries.

Bedrooms:

Bedrooms in basements or attics are not allowed unless they meet local code requirements and must have adequate ventilation and emergency exit capability.

Minimum bedroom ceiling height is 7'6" or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

Modifications

Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.

Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. PHA will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

F. Life-Threatening Conditions HUD is defining a nonlife-threatening condition as any condition that would fail to meet the housing quality standards under 24 CFR 982.401 and is not a life-threatening condition. Further, for the purposes of implementing the policy outlined by HOTMA, HUD is defining life-threatening conditions as follows and applies to all HQS inspections:

(1) Gas (natural or liquid petroleum) leak or fumes. A life-threatening condition under this standard is one of the following: (a) A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking; or (b) a strong gas odor detected with potential for explosion or fire, or that results in health risk if inhaled.

(2) Electrical hazards that could result in shock or fire. A life-threatening condition under this standard is one of the following: (a) A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed; (b) a light fixture is hanging by its wires; (c) a light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day to day use of the unit; (d) a receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed; (e) a receptacle (outlet) or switch has a missing or damaged cover plate and electrical connections or wires are exposed; (f) an open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses; (g) a cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections; (h) any nicks, abrasions, or fraying of the insulation that expose conducting wire; (i) exposed bare wires or electrical connections; (j) any condition that results in openings in electrical panels or electrical control device enclosures; (k) water leaking or ponding near any electrical device; or (l) any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.

(3) Inoperable or missing smoke detector. A life-threatening condition under this standard is one of the following: (a) the smoke detector is missing; or (b) the smoke detector does not function as it should.

(4) Interior air quality. A life threatening condition under this standard is one of the following: (a) the carbon monoxide detector is missing; or (b) the carbon monoxide detector does not function as it should.

(5) Gas/oil fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney or venting. A life threatening condition under this standard is one of the following: (a) The chimney or venting system on a fuel fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gases; (b) a gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside; (c) a fuel fired space heater is not properly vented or lacks available combustion air; (d) a non-vented space heater is present; (e) safety devices on a fuel fired space heater are missing or damaged; or (f) the chimney or venting system on a fuel fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged which may cause improper or dangerous venting of gases.

(6) Lack of alternative means of exit in case of fire or blocked egress. A life threatening condition under this standard is one of the following: (a) Any of the components that affect the function of the fire escape are missing or damaged; (b) stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency; or (c) the building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency.

(7) Other interior hazards. A life threatening condition under this standard is a fire extinguisher (where required) that is missing, damaged, discharged, overcharged, or expired.

(8) Deteriorated paint, as defined by 24 CFR 35.110, in a unit built before 1978 that is to be occupied by a family with a child under 6 years of age. This is a life-threatening condition only for the purpose of a condition that would prevent a family from moving into the unit. All lead

hazard reduction requirements in 24 CFR part 35, including the timeline for lead hazard reduction procedures, still apply.

(9) Any other condition subsequently identified by HUD as life threatening in a notice published in the Federal Register. HUD will notify PHAs if such changes are made. (10) Any other condition identified by the administering PHA as life threatening in the PHA's administrative plan prior to this notice taking effect. See section G.

G. EMERGENCY REPAIR ITEMS [24 CFR 982.401(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Inspector:

Lack of security for the unit

Waterlogged ceiling in imminent danger of falling

Major plumbing leaks or flooding

Natural gas leak or fumes

Electrical problem which could result in shock or fire

No heat when outside temperature is below 50 degrees Fahrenheit and temperature inside unit is below 60 degrees Fahrenheit.

Utilities not in service

No running hot water

Broken glass where someone could be injured

Obstacle which prevents tenant's entrance or exit

Lack of functioning toilet

No operating or functioning smoke detector on each level of the home

The THA may give a short extension (not more than 24 hours additional hours) whenever the responsible party cannot be notified or it is impossible to effect the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the THA, and the family.

If the emergency repair item(s) are not corrected in the time period required by the THA, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the THA, and it is an HQS breach which is a family obligation, the THA will terminate the assistance to the family.

Smoke Detectors

Inoperable smoke detectors are a serious health threat and will be treated by the THA as an emergency (24 hour) fail item.

If the smoke detector is not operating properly the PHA will contact the owner by phone and request the owner to repair the smoke detector within 24 hours. The THA will re-inspect the unit the following day.

If the THA determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the THA will re-inspect the unit the following day.

The THA will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. Warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS.

In reference to smoke detectors, each detector must be installed in accordance with and meet the requirements of the National Fire Protection Association Standards (NFPA) 74 or its successor standards. Effective January 1, 2015, Florida Statute changed the requirement of smoke detectors as a precautionary measure to ensure the safety of families residing in single family and duplex units. Florida Statute 553.883 indicates that smoke alarms in one-family and two-family dwellings and townhomes undergoing a repair, or a level 1 alteration as defined in the Florida Building Code, may use smoke alarms powered by 10-year non-removable, non-replaceable batteries in lieu of retrofitting such dwelling with smoke alarms powered by the dwelling's electrical system. A battery-powered smoke alarm that is newly installed or replaces an existing battery-powered smoke alarm must be powered by a non-removable, non-replaceable battery that powers the alarm for at least 10 years. The battery requirements of this section do not apply to a fire alarm, smoke detector, smoke alarm, or ancillary component that is electronically connected as a part of a centrally monitored or supervised alarm system.

RESOLUTION 2015-3967 September 16th, 2015

H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS) **[24 CFR 982.405, 982.453]**

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the THA, the assistance payment to the owner will be abated.

Abatement

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the month after the date of the second failed inspection. A notice may be sent requiring the family to transfer, depending on the nature of the repair(s) needed.

The THA will inspect abated units within **seven (7) days** of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

The THA will advise owners of their responsibility to notify the tenant of when the re-inspection will take place.

The family will be notified of the re-inspection date and may inform the owner.

If the unit is repaired and passes an inspection prior to the effective date of the abatement, the family will be required to remain in the unit unless it is a 24 hour repair. If the unit goes into abatement, the family will be issued a voucher to move as long as the tenant provides a 30 day notice to the owner of their intent to move.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the THA's portion of rent that is abated.

[Resolution 3405, adopted 2/25/05]

Termination of Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination **will** be rescinded by the THA if the tenant chooses to remain in the unit by signing a form agreeing to such. **No more than (two) 2** Housing Quality Standards inspections will be conducted after the termination notice is issued.

The HAP contract will terminate within 60 days of the effective date of the abatement.

I. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

Tenant-paid utilities not in service

Failure to provide or maintain family-supplied appliances

Damage to the unit or premises caused by a household member or guest beyond normal wear and tear

"Normal wear and tear" is defined as items which could be charged against the tenant's security deposit under state law or court practice.

The owner is responsible for all other HQS violations.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The THA may terminate the family's assistance on that basis.

The inspector will make a determination of owner or family responsibility during the inspection.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

J. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the THA will require the family make any repair(s) or corrections within thirty (30) days. If the repair(s) or correction(s) are not made in this time period, the THA will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by Director of Assisted Housing or his/her designee. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

Upon moving from the apartment and there is clear evidence of HQS damages that is beyond normal wear and tear such as evidenced in pictures or video, tenant will be sent an intent to terminate notice. If it does not appear to be HQS damages, then owner must take tenant to court for damages. If damages are awarded, then THA will enforce the agreement by mandating the family pay damages to the owner. Tenant's failure to pay damages, may result in termination of rental assistance.

K. LEAD BASED PAINT REQUIREMENTS

Lead-Based Paint

- The Lead-Based Paint Poisoning Prevention Act as amended (42 U.S.C. 4821 - 4846) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 and implementing regulations 24 CFR Part 35 Subparts A, B, M, and R apply to the housing choice voucher program.

Acceptability Criteria

- The 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.

Chapter 10: Housing Quality Standards Housing Choice Voucher Program Guidebook

During initial and annual inspections of pre-1978 units that are occupied or will be occupied by families with children under 6 years of age, the inspector must conduct a visual assessment for deteriorated paint surfaces and the owner must stabilize deteriorated surfaces. Applicable areas include painted surfaces within the dwelling unit, exterior painted surfaces associated with the dwelling unit, and common areas of the building through which residents must pass to gain access to the unit and areas frequented by resident children under six years of age, including play areas and child care facilities.

- For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted, and the owner must complete hazard reduction activities if lead hazards are identified during the risk assessment.

§ 35.110 Definitions.

Certified means certified to perform such activities as risk assessment, lead based paint inspection, abatement supervision, or renovation, either by a State or Indian tribe with a lead-based paint certification program authorized by the Environmental Protection Agency (EPA), in accordance with 40 CFR part 745, subpart Q, or by the EPA, in accordance with 40 CFR part 745, subparts E or L.

Elevated blood lead level means a confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the U.S. Department of Health and Human Services (HHS) on recommending that an environmental intervention be conducted. (When HHS changes the value, HUD will publish a notice in the Federal Register, with the opportunity for public comment, on its intent to apply the changed value to this part, and, after considering comments, publish a notice on its applying the changed value to this part.)

Environmental investigation means the process of determining the source of lead exposure for a child under age 6 with an elevated blood lead level, consisting of administration of a questionnaire, comprehensive environmental sampling, case management, and other measures, in accordance with chapter 16 of the HUD Guidelines for the Evaluation and Control of Lead-

Based Paint Hazards in Housing (“Guidelines”).

https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/lbp/hudguidelines

Evaluation means a risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint, or an environmental investigation. Expected to reside means there is actual knowledge that a child will reside in a dwelling unit reserved or designated exclusively for the elderly or reserved or designated exclusively for persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that a child will reside in the dwelling unit.

§ 35.325 Child with an elevated blood lead level.

- (a) If a child less than 6 years of age living in a federally assisted dwelling unit has an elevated blood lead level, the owner shall immediately conduct an environmental investigation. Interim controls of identified lead-based paint hazards shall be conducted in accordance with § 35.1330.
- (b) Other assisted dwelling units in the property.
 - (1) If the environmental investigation conducted under paragraph (a) of this section identifies lead-based paint hazards, the owner shall conduct a risk assessment for other assisted dwelling units covered by this subpart in which a child under age 6 resides or is expected to reside on the date interim controls are complete, and for the common areas servicing those units. The risk assessments shall be conducted within 30 calendar days after receipt of the environmental investigation report on the index unit if there are 20 or fewer such units, or 60 calendar days for risk assessments if there are more than 20 such units. If the risk assessment identifies lead-based paint hazards, the owner shall control identified hazards in accordance with § 35.1325 or § 35.1330 in those units and common areas within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d).
 - 2) The requirements for other assisted dwelling units covered by paragraph (b)(1) of this section do not apply if:
 - (i) The owner both conducted a risk assessment of the other assisted dwelling units covered by paragraph (b)(1), and the common areas servicing those units, and conducted reduction of identified lead-based paint hazards in accordance with § 35.1325 or § 35.1330 between the date the child’s blood was last sampled and the date the owner received the notification of the elevated blood lead level; or
 - (ii) The owner provides the Federal agency documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report. (c) Interim controls are complete when clearance is achieved in accordance with § 35.1340. (d) The Federal agency shall establish a timetable for completing, and providing documentation to the agency on the environmental investigation, risk assessments, and lead-based paint hazard reduction when a child is identified as having an elevated blood lead level.

Subpart M_Tenant-Based Rental Assistance Source

Sec. 35.1200 Purpose and applicability.

(a) Purpose. The purpose of this subpart M is to establish procedures to eliminate as far as practicable lead-based paint hazards in housing occupied by families receiving tenant-based rental assistance. Such assistance includes tenant-based rental assistance under the Section 8 certificate program, the Section 8 voucher program, the HOME program, the Shelter Plus Care program, the Housing Opportunities for Persons With AIDS (HOPWA) program, and the Indian Housing Block Grant program. Tenant-based rental assistance means rental assistance that is not attached to the structure.

(b) Applicability.

(1) This subpart applies only to dwelling units occupied or to be occupied by families or households that have one or more children of less than 6 years of age, common areas servicing such dwelling units, and exterior painted surfaces associated with such dwelling units or common areas. Common areas servicing a dwelling unit include those areas through which residents pass to gain access to the unit and other areas frequented by resident children of less than 6 years of age, including on-site play areas and child care facilities.

(2) For the purposes of the Section 8 tenant-based certificate program and the Section 8 voucher program:

(i) The requirements of this subpart are applicable where an initial or periodic inspection occurs on or after September 15, 2000; and

(ii) The PHA shall be the designated party.

(3) For the purposes of formula grants awarded under the Housing Opportunities for Persons with AIDS Program (HOPWA) (42 U.S.C. 12901 et seq.):

(i) The requirements of this subpart shall apply to activities for which program funds are first obligated on or after September 15, 2000; and

(ii) The grantee shall be the designated party.

(4) For the purposes of competitively awarded grants under the HOPWA Program and the Shelter Plus Care program (42 U.S.C. 11402-11407) tenant-based rental assistance component:

(i) The requirements of this subpart shall apply to grants awarded pursuant to Notices of Funding Availability published on or after September 15, 2000; and (ii) The grantee shall be the designated party.

(7) The housing agency, grantee, participating jurisdiction, or IHBG recipient may assign to a subrecipient or other entity the responsibilities of the designated party in this subpart.
[64 FR 50216, Sept. 15, 1999; 65 FR 3387, Jan. 21, 2000]

Sec. 35.1205 Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

Sec. 35.1210 Notices and pamphlet.

(a) Notice. In cases where evaluation or paint stabilization is undertaken, the owner shall provide a notice to residents in accordance with Sec. 35.125. A visual assessment alone is not considered an evaluation for purposes of this part.

(b) Lead hazard information pamphlet. The owner shall provide the lead hazard information pamphlet in accordance with Sec. 35.130.

Sec. 35.1215 Activities at initial and periodic inspection.

(a) (1) During the initial and periodic inspections, an inspector acting on behalf of the designated party and trained in visual assessment for deteriorated paint surfaces in accordance with procedures established by HUD shall conduct a visual assessment of all painted surfaces in order to identify any deteriorated paint.

(2) For tenant-based rental assistance provided under the HOME program, visual assessment shall be conducted as part of the initial and periodic inspections required under Sec. 92.209(i) of this title.

(b) The owner shall stabilize each deteriorated paint surface in accordance with Sec. 35.1330(a) and (b) before commencement of assisted occupancy. If assisted occupancy has commenced prior to a periodic inspection, such paint stabilization must be completed within 30 days of notification of the owner of the results of the visual assessment. Paint stabilization is considered complete when clearance is achieved in accordance with Sec. 35.1340. If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of Housing Quality Standards (HQS) until the hazard reduction is completed or the unit is no longer covered by this subpart because the unit is no longer under a housing assistance payment (HAP) contract with the housing agency.

(c) The owner shall provide a notice to occupants in accordance with Sec. 35.125(b)(1) and (c) describing the results of the clearance examination.

(d) The designated party may grant the owner an extension of time to complete paint stabilization and clearance for reasonable cause, but such an extension shall not extend beyond 90 days after the date of notification to the owner of the results of the visual assessment.

Sec. 35.1220 Ongoing lead-based paint maintenance activities.

Notwithstanding the designation of the PHA, grantee, participating jurisdiction, or Indian Housing Block Grant (IHBG) recipient as the designated party for this subpart, the owner shall incorporate ongoing lead-based paint maintenance activities into regular building operations in accordance with Sec. 35.1355(a).

Sec. 35.1225 Child with an environmental intervention blood lead level.

(a) Within 15 calendar days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a dwelling unit to which this subpart applies has been identified as having an elevated blood lead level, the designated party shall complete an environmental investigation of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. When the environmental investigation is complete, the designated party shall immediately provide the report of the environmental investigation to the owner of the dwelling unit. If the child identified as having an elevated blood lead level is no longer living in the unit when the designated party receives notification from the public health department or other medical health care provider, but another household receiving tenant based rental assistance is living in the unit or is planning to live there, the requirements of this section apply just as they do if the child still lives in the unit. If a public health department has already conducted an evaluation of the dwelling unit in regard to the child's elevated blood lead level case, or the designated party conducted an environmental investigation of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the designated party received the notification of the elevated blood lead level, the requirements of this paragraph shall not apply. If the designated party or the owner conducted a risk assessment of the unit and common areas servicing the unit during that period, the designated party need not conduct another risk assessment there but shall conduct the elements of an environmental investigation not already conducted during the risk assessment.

(b) **Verification.** After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a dwelling unit covered by this subpart may have an elevated blood lead level, the designated party shall immediately verify the information with the public health department or other medical health care provider. If the public health department or provider denies the request, such as because it does not have the capacity to verify that information, the designated party shall send documentation of the denial to the HUD rental assistance program manager, who shall make an effort to verify the information. If that department or provider verifies that the child has an elevated blood lead level, such verification shall constitute notification, and the designated party shall take the action required in paragraphs (a) and (c) of this section.

(c) **Lead-based paint hazard reduction.** Within 30 calendar days after receiving the report of the environmental investigation from the designated party or the evaluation from the public health department, the owner shall complete the reduction of identified lead-based paint hazards in accordance with § 35.1325 or § 35.1330. Lead-based paint hazard reduction is considered complete when clearance is achieved in accordance with § 35.1340 and the clearance report states that all lead-based paint hazards identified in the environmental investigation have been treated with interim controls or abatement or the public health department certifies that the lead-

based paint hazard reduction is complete. The requirements of this paragraph do not apply if the designated party or the owner, between the date the child's blood was last sampled and the date the designated party received the notification of the elevated blood lead level, already conducted an environmental investigation of the unit and common areas servicing the unit and the owner completed reduction of identified lead-based paint hazards. If the owner does not complete the lead based paint hazard reduction required by this section, the dwelling unit is in violation of the standards of 24 CFR 982.401.

(d) Notice of lead-based paint hazard evaluation and reduction. The owner shall notify building residents of any lead-based paint hazard evaluation or reduction activities in accordance with § 35.125.

(e) Reporting requirement. (1) The owner shall report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. (2) The owner shall also report each confirmed case of a child with an elevated blood lead level to the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes within 5 business days of being so notified. (3) The owner shall provide to the HUD field office documentation that it has conducted the activities of paragraphs (a) through (d) of this section, within 10 business days of the deadline for each activity.

(f) Other assisted dwelling units in the property. (1) If the environmental investigation conducted pursuant to paragraph (a) of this section identifies lead-based paint hazards, the designated party or the owner shall, for other assisted dwelling units covered by this part in which a child under age 6 resides or is expected to reside on the date lead-based paint hazard reduction under paragraph (c) of this section is complete, and the common areas servicing those units, conduct a risk assessment in accordance with § 35.1320(b) within 30 calendar days after receipt of the environmental investigation report if there are 20 or fewer such units, or 60 calendar days if there are more such units. (2) If the risk assessment conducted under paragraph (f)(1) of this section identifies lead-based paint hazards, the owner shall complete the reduction of the lead-based paint hazards in accordance with § 35.1325 or § 35.1330 within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d). Lead based paint hazard reduction is considered complete when clearance is achieved in accordance with § 35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement. (3) The requirements of this paragraph (f) of this section do not apply if: (i) The designated party or the owner, between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level, both conducted a risk assessment of the other assisted dwelling units covered by paragraph (f)(1) of this section and the common areas servicing those units, and the owner conducted interim controls of identified lead-based paint hazards in accordance with § 35.1225(c); or (ii) The owner has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report pursuant to paragraph (a) of this section; and, (iii) In either case, the owner provided the HUD field office, within 10 business

days after receiving the notification of the elevated blood lead level, documentation that it has conducted the activities described in this paragraph (f)(3).

(g) Data collection and record keeping responsibilities. At least quarterly, the designated party shall attempt to obtain from the public health department(s) with area(s) of jurisdiction similar to that of the designated party the names and/or addresses of children of less than 6 years of age with an identified elevated blood lead level. At least quarterly, the designated party shall also report an updated list of the addresses of units receiving assistance under a tenant-based rental assistance program to the same public health department(s), except that the report(s) to the public health department(s) is not required if the health department states that it does not wish to receive such report. If it obtains names and addresses of elevated blood lead level children from the public health department(s), the designated party shall match information on cases of elevated blood lead levels with the names and addresses of families receiving tenant based rental assistance, unless the public health department performs such a matching procedure. If a match occurs, the designated party shall carry out the requirements of this section.

RESOLUTION 2017-4054 approved May 10th, 2017

Subpart R Methods and Standards for Lead-Paint Hazard Evaluation and Hazard Reduction Activities Source: 64 FR 50218, Sept. 15, 1999, unless otherwise noted.

Sec. 35.1300 Purpose and applicability.

The purpose of this subpart R is to provide standards and methods for evaluation and hazard reduction activities required in subparts B, C, D, and F through M of this part.

Sec. 35.1305 Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

Sec. 35.1310 References.

Further guidance information regarding evaluation and hazard reduction activities described in this subpart is found in the following:

(a) The HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (Guidelines);

(b) The EPA Guidance on Residential Lead-Based Paint, Lead- Contaminated Dust, and Lead Contaminated Soil;

(c) Guidance, methods or protocols issued by States and Indian tribes that have been authorized by EPA under 40 CFR 745.324 to administer and enforce lead-based paint programs.

Sec. 35.1315 Collection and laboratory analysis of samples.

All paint chip, dust, or soil samples shall be collected and analyzed in accordance with standards established either by a State or Indian tribe under a program authorized by EPA in accordance with 40 CFR part 745, subpart Q, or by the EPA in accordance with 40 CFR 745.227, and as further provided in this subpart.

Sec. 35.1320 Lead-based paint inspections and risk assessments.

(a) Lead-based paint inspections and paint testing. Lead-based paint inspections shall be performed in accordance with methods and standards established either by a State or Tribal program authorized by the EPA under 40 CFR 745.324, or by the EPA at 40 CFR 745.227(b) and (h). Paint testing to determine the presence or absence of lead-based paint on deteriorated paint surfaces or surfaces to be disturbed or replaced shall be performed by a certified lead-based paint inspector or risk assessor.

(b) Risk assessments, lead-hazard screens and reevaluations.

(1) Risk assessments and lead-hazard screens shall be performed in accordance with methods and standards established either by a state or tribal program authorized by the EPA, or by the EPA at 40 CFR 745.227(c), (d), and (h) and paragraph (b)(2) of this section. Reevaluations shall be performed by a certified risk assessor in accordance with Sec. 35.1355(b) and paragraph (b)(2) of this section.

(2) Risk assessors shall use standards for determining dust-lead hazards and soil-lead hazards that are at least as protective as those promulgated by the EPA at 40 CFR 745.227(h) or, if such standards are not in effect, the following levels for dust or soil:

(i) Dust. A dust-lead hazard is surface dust that contains a mass- per-area concentration (loading) of lead, based on wipe samples, equal to or exceeding the applicable level in the following table:

Dust Lead Standards

Surface

Evaluation method Interior window
Floors, $\mu\text{g}/\text{ft}^2$ sills, $\mu\text{g}/\text{ft}^2$ Window troughs,
(mg/m^2) (mg/m^2) $\mu\text{g}/\text{ft}^2$ ($\mu\text{g}/\text{m}^2$)

Risk Assessment.....	40 (0.43)	250 (2.7)	Not Applicable.
Lead Hazard Screen.....	25 (0.27)	125 (1.4)	Not Applicable.
Reevaluation.....	40 (0.43)	250 (2.7)	Not Applicable. Clearance.....
	40 (0.43)	250 (2.7)	400 (4.3).

Note 1: "Floors" includes carpeted and uncarpeted interior floors.

Note 2: A dust-lead hazard is present or clearance fails when the weighted arithmetic mean lead loading for all single-surface or composite samples is equal to or greater than the applicable standard. For composite samples of two to four subsamples, the standard is determined by dividing the standard in the table by one half the number of subsamples. See EPA regulations at 40 CFR 745.63 and 745.227(h)(3)(i).

(ii) Soil.

- (A) A soil-lead hazard for play areas frequented by children under six years of age is bare soil with lead equal to or exceeding 400 parts per million (micrograms per gram).
- (B) For the rest of the yard, a soil-lead hazard is bare soil that totals more than 9 square feet (0.8 square meters) per property with lead equal to or exceeding an average of 1,200 parts per million (micrograms per gram).
- (3) Lead-hazard screens shall be performed in accordance with the methods and standards established either by a state or Tribal program authorized by the EPA, or by the EPA at 40 CFR 745.227(c), and paragraphs (b)(1) and (b)(2) of this section. If the lead-hazard screen indicates the need for a follow-up risk assessment (e.g., if dust-lead measurements exceed the levels established for lead-hazard screens in paragraph (b)(2)(i) of this section), a risk assessment shall be conducted in accordance with paragraphs (b)(1) and (b)(2) of this section. Dust, soil, and paint samples collected for the lead-hazard screen may be used in the risk assessment. If the lead hazard screen does not indicate the need for a follow-up risk assessment, no further risk assessment is required.
- (c) It is strongly recommended, but not required, that lead-based paint inspectors, risk assessors, and sampling technicians provide a plain-language summary of the results suitable for posting or distribution to occupants in compliance with Sec. 35.125.

Sec. 35.1325 Abatement.

Abatement shall be performed in accordance with methods and standards established either by a State or Indian tribe under a program authorized by EPA, or by EPA at 40 CFR 745.227(e), and shall be completed by achieving clearance in accordance with Sec. 35.1340. If encapsulation or enclosure is used as a method of abatement, ongoing lead-based paint maintenance activities shall be performed as required by the applicable subpart of this part in accordance with Sec. 35.1355. Abatement of an intact, factory-applied prime coating on metal surfaces is not required unless the surface is a friction surface.

Sec. 35.1330 Interim controls.

Interim controls of lead-based paint hazards identified in a risk assessment shall be conducted in accordance with the provisions of this section. Interim control measures include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above the levels specified in Sec. 35.1320, dust control, and lead-contaminated soil control. As provided by Sec. 35.155, interim controls may be performed in combination with, or be replaced by, abatement methods.

(a) General requirements.

(1) Only those interim control methods identified as acceptable methods in a current risk assessment report shall be used to control identified hazards, except that, if only paint stabilization is required in accordance with subpart M, it shall not be necessary to have conducted a risk assessment.

(2) Occupants of dwelling units where interim controls are being performed shall be protected during the course of the work in accordance with Sec. 35.1345.

(3) Clearance testing shall be performed at the conclusion of interim control activities in accordance with Sec. 35.1340.

(4) A person performing interim controls must be trained in accordance with the hazard communication standard for the construction industry issued by the Occupational Safety and Health Administration of the U.S. Department of Labor at 29 CFR 1926.59, and either be supervised by an individual certified as a lead-based paint abatement supervisor or have completed successfully one of the following lead-safe work practices courses, except that this supervision or lead-safe work practices training requirement does not apply to work that disturbs painted surfaces less than the de minimis limits of Sec. 35.1350(d):

(i) A lead-based paint abatement supervisor course accredited in accordance with 40 CFR 745.225;

(ii) A lead-based paint abatement worker course accredited in accordance with 40 CFR 745.225; or

(iii) A renovator course accredited in accordance with 40 CFR 745.225.

(b) Paint stabilization.

(1) Interim control treatments used to stabilize deteriorated lead-based paint shall be performed in accordance with the requirements of this section. Interim control treatments of intact, factory applied prime coatings on metal surfaces are not required. Finish coatings on such surfaces shall be treated by interim controls if those coatings contain lead-based paint.

(2) Any physical defect in the substrate of a painted surface or component that is causing deterioration of the surface or component shall be repaired before treating the surface or component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, and missing siding or other components that are not securely fastened.

(3) Before applying new paint, all loose paint and other loose material shall be removed from the surface to be treated. Acceptable methods for preparing the surface to be treated include wet scraping, wet sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to the manufacturer's instructions.

(4) Dry sanding or dry scraping is permitted only in accordance with Sec. 35.140(e) (i.e., for electrical safety reasons or for specified minor amounts of work).

(5) Paint stabilization shall include the application of a new protective coating or paint. The surface substrate shall be dry and protected from future moisture damage before applying a new protective coating or paint. All protective coatings and paints shall be applied in accordance with the manufacturer's recommendations.

(6) Paint stabilization shall incorporate the use of safe work practices in accordance with Sec. 35.1350.

(c) Friction and impact surfaces.

(1) Friction surfaces are required to be treated only if:

(i) Lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, window trough, or floor) are equal to or greater than the standards specified in 35.1320(b);

(ii) There is evidence that the paint surface is subject to abrasion; and

(iii) Lead-based paint is known or presumed to be present on the friction surface.

(2) Impact surfaces are required to be treated only if:

(i) Paint on an impact surface is damaged or otherwise deteriorated;

(ii) The damaged paint is caused by impact from a related building component (such as a door knob that knocks into a wall, or a door that knocks against its door frame); and

(iii) Lead-based paint is known or presumed to be present on the impact surface.

(3) Examples of building components that may contain friction or impact surfaces include the following:

(i) Window systems;

(ii) Doors;

(iii) Stair treads and risers;

(iv) Baseboards;

(v) Drawers and cabinets; and (vi) Porches, decks, interior floors, and any other painted surfaces that are abraded, rubbed, or impacted.

(4) Interim control treatments for friction surfaces shall eliminate friction points or treat the friction surface so that paint is not subject to abrasion. Examples of acceptable treatments include rehanging and/or planing doors so that the door does not rub against the door frame, and installing window channel guides that reduce or eliminate abrasion of painted surfaces. Paint on stair treads and floors shall be protected with a durable cover or coating that will prevent abrasion of the painted surfaces. Examples of acceptable materials include carpeting, tile, and sheet flooring.

(5) Interim control treatments for impact surfaces shall protect the paint from impact. Examples of acceptable treatments include treatments that eliminate impact with the paint surface, such as a door stop to prevent a door from striking a wall or baseboard.

(6) Interim control for impact or friction surfaces does not include covering such a surface with a coating or other treatment, such as painting over the surface, that does not protect lead-based paint from impact or abrasion.

(d) Chewable surfaces.

(1) Chewable surfaces are required to be treated only if there is evidence of teeth marks, indicating that a child of less than six years of age has chewed on the painted surface, and lead-based paint is known or presumed to be present on the surface.

(2) Interim control treatments for chewable surfaces shall make the lead-based paint inaccessible for chewing by children of less than 6 years of age. Examples include enclosures or coatings that cannot be penetrated by the teeth of such children.

(e) Dust-lead hazard control.

(1) Interim control treatments used to control dust-lead hazards shall be performed in accordance with the requirements of this section. Additional information on dust removal is found in the HUD Guidelines, particularly Chapter 11 (see Sec. 35.1310).

(2) Dust control shall involve a thorough cleaning of all horizontal surfaces, such as interior window sills, window troughs, floors, and stairs, but excluding ceilings. All horizontal surfaces, such as floors, stairs, window sills and window troughs, that are rough, pitted, or porous shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.

(3) Surfaces covered by a rug or carpeting shall be cleaned as follows:

(i) The floor surface under a rug or carpeting shall be cleaned where feasible, including upon removal of the rug or carpeting, with a HEPA vacuum or other method of equivalent efficacy.

(ii) An unattached rug or an attached carpet that is to be removed, and padding associated with such rug or carpet, located in an area of the dwelling unit with dust-lead hazards on the floor, shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy. Protective measures shall be used to prevent the spread of dust during removal of a rug, carpet or padding from the dwelling. For example, it shall be misted to reduce dust generation during removal. The item(s) being removed shall be wrapped or otherwise sealed before removal from the worksite.

(iii) An attached carpet located in an area of the dwelling unit with dust-lead hazards on the floor shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy if it is not to be removed.

(f) Soil-lead hazards.

(1) Interim control treatments used to control soil-lead hazards shall be performed in accordance with this section.

(2) Soil with a lead concentration equal to or greater than 5,000 µg/g of lead shall be abated in accordance with 40 CFR 745.227(e).

(3) Acceptable interim control methods for soil lead are impermanent surface coverings and land use controls.

(i) Impermanent surface coverings may be used to treat lead- contaminated soil if applied in accordance with the following requirements. Examples of acceptable impermanent coverings include gravel, bark, sod, and artificial turf.

(A) Impermanent surface coverings selected shall be designed to withstand the reasonably-expected traffic. For example, if the area to be treated is heavily traveled, neither grass or sod shall be used.

(B) When loose impermanent surface coverings such as bark or gravel are used, they shall be applied in a thickness not less than six inches deep.

(C) The impermanent surface covering material shall not contain more than 400 µg/g of lead.

(D) Adequate controls to prevent erosion shall be used in conjunction with impermanent surface coverings.

(ii) Land use controls may be used to reduce exposure to soil-lead hazards only if they effectively control access to areas with soil-lead hazards. Examples of land use controls include: fencing, warning signs, and landscaping.

(A) Land use controls shall be implemented only if residents have reasonable alternatives to using the area to be controlled.

(B) If land use controls are used for a soil area that is subject to erosion, measures shall be taken to contain the soil and control dispersion of lead.

Sec. 35.1335 Standard treatments.

Standard treatments shall be conducted in accordance with this section.

(a) Paint stabilization. All deteriorated paint on exterior and interior surfaces located on the residential property shall be stabilized in accordance with Sec. 35.1330(a)(b), or abated in accordance with Sec. 35.1325.

(b) Smooth and cleanable horizontal surfaces. All horizontal surfaces, such as uncarpeted floors, stairs, interior window sills and window troughs, that are rough, pitted, or porous, shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.

- (c) Correcting dust-generating conditions. Conditions causing friction or impact of painted surfaces shall be corrected in accordance with Sec. 35.1330(c)(4)-(6).
- (d) Bare residential soil. Bare soil shall be treated in accordance with the requirements of Sec. 35.1330, unless it is found not to be a soil-lead hazard in accordance with Sec. 35.1320(b).
- (e) Safe work practices. All standard treatments described in paragraphs (a) through (d) of this section shall incorporate the use of safe work practices in accordance with Sec. 35.1350.
- (f) Clearance. A clearance examination shall be performed in accordance with Sec. 35.1340 at the conclusion of any lead hazard reduction activities.
- (g) Qualifications. An individual performing standard treatments must meet the training and/or supervision requirements of Sec. 35.1330(a)(4).

Sec. 35.1340 Clearance.

Clearance examinations required under subparts B, C, D, F through M, and R, of this part shall be performed in accordance with the provisions of this section.

(a) Clearance following abatement. Clearance examinations performed following abatement of lead-based paint or lead-based paint hazards shall be performed in accordance with 40 CFR 745.227(e) and paragraphs (c)-(f) of this section. Such clearances shall be performed by a person certified to perform risk assessments or lead-based paint inspections.

(b) Clearance following activities other than abatement. Clearance examinations performed following interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation shall be performed in accordance with the requirements of this paragraph (b) and paragraphs (c) through (g) of this section. Clearance is not required if the work being cleared does not disturb painted surfaces of a total area more than that set forth in Sec. 35.1350(d).

(1) Qualified personnel. Clearance examinations shall be performed by:

(i) A certified risk assessor;

(ii) A certified lead-based paint inspector;

(iii) A person who has successfully completed a training course for sampling technicians (or a discipline of similar purpose and title) that is developed or accepted by EPA or a State or tribal program authorized by EPA pursuant to 40 CFR part 745, subpart Q, and that is given by a training provider accredited by EPA or a State or Indian Tribe for training in lead-based paint inspection or risk assessment, provided a certified risk assessor or a certified lead-based paint inspector approves the work of the sampling technician and signs the report of the clearance examination; or

(iv) A technician licensed or certified by EPA or a State or Indian Tribe to perform clearance examinations without the approval of a certified risk assessor or certified lead-based paint inspector, provided that a clearance examination by such a licensed or certified technician shall be performed only for a single-family property or individual dwelling units and associated common areas in a multi-unit property, and provided further that a clearance examination by such a licensed or certified sampling technician shall not be performed using random sampling of dwelling units or common areas in multifamily properties, except that a clearance examination performed by such a licensed or certified sampling technician is acceptable for any residential property if the clearance examination is approved and the report signed by a certified risk assessor or a certified lead-based paint inspector.

(2) Required activities.

(i) Clearance examinations shall include a visual assessment, dust sampling, submission of samples for analysis for lead in dust, interpretation of sampling results, and preparation of a report. Soil sampling is not required. Clearance examinations shall be performed in dwelling units, common areas, and exterior areas in accordance with this section and the steps set forth at 40 CFR 745.227(e)(8). If clearance is being performed after lead-based paint hazard reduction, paint stabilization, maintenance, or rehabilitation that affected exterior surfaces but did not disturb interior painted surfaces or involve elimination of an interior dust-lead hazard, interior clearance is not required if window, door, ventilation, and other openings are sealed during the exterior work. If clearance is being performed for more than 10 dwelling units of similar construction and maintenance, as in a multifamily property, random sampling for the purpose of clearance may be conducted in accordance with 40 CFR 745.227(e)(9).

(ii) The visual assessment shall be performed to determine if deteriorated paint surfaces and/or visible amounts of dust, debris, paint chips or other residue are still present. Both exterior and interior painted surfaces shall be examined for the presence of deteriorated paint. If deteriorated paint or visible dust, debris or residue are present in areas subject to dust sampling, they must be eliminated prior to the continuation of the clearance examination, except elimination of deteriorated paint is not required if it has been determined, through paint testing or a lead-based paint inspection, that the deteriorated paint is not lead-based paint. If exterior painted surfaces have been disturbed by the hazard reduction, maintenance or rehabilitation activity, the visual assessment shall include an assessment of the ground and any outdoor living areas close to the affected exterior painted surfaces. Visible dust or debris in living areas shall be cleaned up and visible paint chips on the ground shall be removed.

(iii) Dust samples shall be wipe samples and shall be taken on floors and, where practicable, interior window sills and window troughs. Dust samples shall be collected and analyzed in accordance with Sec. 35.1315 of this part.

(iv) Clearance reports shall be prepared in accordance with paragraph (c) of this section.

(c) Clearance report. When clearance is required, the designated party shall ensure that a clearance report is prepared that provides documentation of the hazard reduction or maintenance activity as well as the clearance examination. When abatement is performed, the report shall be an abatement report in accordance with 40 CFR 745.227(e)(10). When another hazard reduction

or maintenance activity requiring a clearance report is performed, the report shall include the following information:

(1) The address of the residential property and, if only part of a multifamily property is affected, the specific dwelling units and common areas affected.

(2) The following information on the clearance examination:

(i) The date(s) of the clearance examination;

(ii) The name, address, and signature of each person performing the clearance examination, including certification number;

(iii) The results of the visual assessment for the presence of deteriorated paint and visible dust, debris, residue or paint chips;

(iv) The results of the analysis of dust samples, in $\mu\text{g}/\text{sq. ft.}$, by location of sample; and

(v) The name and address of each laboratory that conducted the analysis of the dust samples, including the identification number for each such laboratory recognized by EPA under section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(3) The following information on the hazard reduction or maintenance activity for which clearance was performed:

(i) The start and completion dates of the hazard reduction or maintenance activity;

(ii) The name and address of each firm or organization conducting the hazard reduction or maintenance activity and the name of each supervisor assigned;

(iii) A detailed written description of the hazard reduction or maintenance activity, including the methods used, locations of exterior surfaces, interior rooms, common areas, and/or components where the hazard reduction activity occurred, and any suggested monitoring of encapsulants or enclosures; and

(iv) If soil hazards were reduced, a detailed description of the location(s) of the hazard reduction activity and the method(s) used.

(d) Standards. The clearance standards in Sec. 35.1320(b)(2) shall apply. If test results equal or exceed the standards, the dwelling unit, worksite, or common area represented by the sample fails the clearance examination.

(e) Clearance failure. All surfaces represented by a failed clearance sample shall be recleaned or treated by hazard reduction, and retested, until the applicable clearance level in Sec. 35.1320(b)(2) is met.

(f) Independence. Clearance examinations shall be performed by persons or entities independent of those performing hazard reduction or maintenance activities, unless the designated party uses qualified in-house employees to conduct clearance. An in-house employee shall not conduct both a hazard reduction or maintenance activity and its clearance examination.

(g) Worksite clearance. Clearance of only the worksite is permitted after work covered by Secs. 35.930, 35.1330, 35.1335, or 35.1355, when containment is used to ensure that dust and debris generated by the work is kept within the worksite. Otherwise, clearance must be of the entire dwelling unit, common area, or outbuilding, as applicable. When clearance is of an interior worksite that is not an entire dwelling unit, common area, or outbuilding, dust samples shall be taken for paragraph (b) of this section as follows:

(1) Sample, from each of at least four rooms, hallways, stairwells, or common areas within the dust containment area:

(i) The floor (one sample); and (ii) Windows (one interior sill sample and one trough sample, if present); and

(2) Sample the floor in a room, hallway, stairwell, or common area connected to the dust containment area, within five feet outside the area (one sample).

Sec. 35.1345 Occupant protection and worksite preparation.

This section establishes procedures for protecting dwelling unit occupants and the environment from contamination from lead-contaminated or lead-containing materials during hazard reduction activities.

(a) Occupant protection.

(1) Occupants shall not be permitted to enter the worksite during hazard reduction activities (unless they are employed in the conduct of these activities at the worksite), until after hazard reduction work has been completed and clearance, if required, has been achieved.

(2) Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:

(i) Treatment will not disturb lead-based paint, dust-lead hazards or soil-lead hazards;

(ii) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;

(iii) Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and

treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste); or

(iv) Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health or environmental hazards; and, at the end of work on each day, the worksite and the area within at least 10 feet (3 meters) of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

(3) The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.

(b) Worksite preparation.

(1) The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.

(2) A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated; or, for an exterior hazard reduction activity, where it is easily read 20 feet (6 meters) from the edge of the hazard reduction activity worksite. Each warning sign shall be as described in 29 CFR 1926.62(m), except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the occupants' primary language.

Sec. 35.1350 Safe work practices.

(a) Prohibited methods. Methods of paint removal listed in Sec. 35.140 shall not be used.

(b) Occupant protection and worksite preparation. Occupants and their belongings shall be protected, and the worksite prepared, in accordance with Sec. 35.1345. A person performing this work shall be trained on hazards and either be supervised or have completed successfully one of the specified courses, in accordance with Sec. 35.1330(a)(4).

(c) Specialized cleaning. After hazard reduction activities have been completed, the worksite shall be cleaned using cleaning methods, products, and devices that are successful in cleaning up dust-lead hazards, such as a HEPA vacuum or other method of equivalent efficacy, and lead-specific detergents or equivalent.

(d) De minimis levels. Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than:

- (1) 20 square feet (2 square meters) on exterior surfaces;
- (2) 2 square feet (0.2 square meters) in any one interior room or space; or
- (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.

Sec. 35.1355 Ongoing lead-based paint maintenance and reevaluation activities.

(a) Maintenance. Maintenance activities shall be conducted in accordance with paragraphs

(a)(2)-(6) of this section, except as provided in paragraph (a)(1) of this section.

(1) Maintenance activities need not be conducted in accordance with this section if a lead-based paint inspection indicates that no lead-based paint is present in the dwelling units, common areas, and on exterior surfaces, or a clearance report prepared in accordance with Sec. 35.1340(a) indicates that all lead-based paint has been removed.

(2) A visual assessment for deteriorated paint, bare soil, and the failure of any hazard reduction measures shall be performed at unit turnover and every twelve months.

(3) (i) Deteriorated paint. All deteriorated paint on interior and exterior surfaces located on the residential property shall be stabilized in accordance with Sec. 35.1330(a)(b), except for any paint that an evaluation has found is not lead-based paint.

(ii) Bare soil. All bare soil shall be treated with standard treatments in accordance with Sec. 35.1335(d) through (g), or interim controls in accordance with Sec. 35.1330(a) and (f); except for any bare soil that a current evaluation has found is not a soil-lead hazard.

(4) Safe work practices, in accordance with sec. 35.1350, shall be used when performing any maintenance or renovation work that disturbs paint that may be lead-based paint.

(5) Any encapsulation or enclosure of lead-based paint or lead-based paint hazards which has failed to maintain its effectiveness shall be repaired, or abatement or interim controls shall be performed in accordance with Secs. 35.1325 or 35.1330, respectively.

(6) Clearance testing of the worksite shall be performed at the conclusion of repair, abatement or interim controls in accordance with Sec. 35.1340.

(7) Each dwelling unit shall be provided with written notice asking occupants to report deteriorated paint and, if applicable, failure of encapsulation or enclosure, along with the name, address and telephone number of the person whom occupants should contact. The language of the notice shall be in accordance with Sec. 35.125(c)(3). The designated party shall respond to such report and stabilize the deteriorated paint or repair the encapsulation or enclosure within 30 days.

(b) Reevaluation. Reevaluation shall be conducted in accordance with this paragraph (b), and the designated party shall conduct interim controls of lead-based paint hazards found in the reevaluation.

(1) Reevaluation shall be conducted if hazard reduction has been conducted to reduce lead-based paint hazards found in a risk assessment or if standard treatments have been conducted, except that reevaluation is not required if any of the following cases are met:

(i) An initial risk assessment found no lead-based paint hazards;

(ii) A lead-based paint inspection found no lead-based paint; or

(iii) All lead-based paint was abated in accordance with Sec. 35.1325, provided that no failures of encapsulations or enclosures have been found during visual assessments conducted in accordance with Sec. 35.1355(a)(2) or during other observations by maintenance and repair workers in accordance with Sec. 35.1355(a)(5) since the encapsulations or enclosures were performed.

(2) Reevaluation shall be conducted to identify:

(i) Deteriorated paint surfaces with known or suspected lead-based paint;

(ii) Deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments;

(iii) Dust-lead hazards; and (iv) Soil that is newly bare with lead levels equal to or above the standards in Sec. 35.1320(b)(2).

(3) Each reevaluation shall be performed by a certified risk assessor.

(4) Each reevaluation shall be conducted in accordance with the following schedule if a risk assessment or other evaluation has found deteriorated lead-based paint in the residential property, a soil-lead hazard, or a dust-lead hazard on a floor or interior window sill. (Window troughs are not sampled during reevaluation). The first reevaluation shall be conducted no later than two years from completion of hazard reduction. Subsequent reevaluation shall be conducted at intervals of two years, plus or minus 60 days. To be exempt from additional reevaluation, at least two consecutive reevaluations conducted at such two-year intervals must be conducted without finding lead-based paint hazards or a failure of an encapsulation or enclosure. If, however, a reevaluation finds lead-based paint hazards or a failure, at least two more consecutive reevaluations conducted at such two year intervals must be conducted without finding lead-based paint hazards or a failure.

(5) Each reevaluation shall be performed as follows:

(i) Dwelling units and common areas shall be selected and reevaluated in accordance with Sec. 35.1320(b).

(ii) The worksites of previous hazard reduction activities that are similar on the basis of their original lead-based paint hazard and type of treatment shall be grouped. Worksites within such groups shall be selected and reevaluated in accordance with Sec. 35.1320(b).

(6) Each reevaluation shall include reviewing available information, conducting selected visual assessment, recommending responses to hazard reduction omissions or failures, performing selected evaluation of paint, soil and dust, and recommending response to newly-found lead-based paint hazards.

(i) Review of available information. The risk assessor shall review any available past evaluation, hazard reduction and clearance reports, and any other available information describing hazard reduction measures, ongoing maintenance activities, and relevant building operations.

(ii) Visual assessment. The risk assessor shall:

(A) Visually evaluate all lead-based paint hazard reduction treatments, any known or suspected lead-based paint, any deteriorated paint, and each exterior site, and shall identify any new areas of bare soil;

(B) Determine acceptable options for controlling the hazard; and

(C) Await the correction of any hazard reduction omission or failure and the reduction of any lead-based paint hazard before sampling any dust or soil the risk assessor determines may reasonably be associated with such hazard.

(iii) Reaction to hazard reduction omission or failure. If any hazard reduction control has not been implemented or is failing (e.g., an encapsulant is peeling away from the wall, a paint-stabilized surface is no longer intact, or gravel covering an area of bare soil has worn away), or deteriorated lead-based paint is present, the risk assessor shall:

(A) Determine acceptable options for controlling the hazard; and

(B) Await the correction of any hazard reduction omission or failure and the reduction of any lead-based paint hazard before sampling any dust or soil the risk assessor determines may reasonably be associated with such hazard.

(iv) Selected paint, soil and dust evaluation. (A) The risk assessor shall sample deteriorated paint surfaces identified during the visual assessment and have the samples analyzed, in accordance with 40 CFR 745.227(b)(3)(4), but only if reliable information about lead content is unavailable.

(B) The risk assessor shall evaluate new areas of bare soil identified during the visual assessment. Soil samples shall be collected and analyzed in accordance with 40 CFR 745.227(d)(8)-(11), but only if the soil lead levels have not been previously measured.

(C) The risk assessor shall take selected dust samples and have them analyzed. Dust samples shall be collected and analyzed in accordance with Sec. 35.1320(b). At least two composite samples, one from floors and the other from interior window sills, shall be taken in each dwelling unit and common area selected. Each composite sample shall consist of four individual samples, each collected from a different room or area. If the dwelling unit contains both carpeted and uncarpeted living areas, separate floor samples are required from the carpeted and uncarpeted areas. Equivalent single-surface sampling may be used instead of composite sampling.

(7) The risk assessor shall provide the designated party with a written report documenting the presence or absence of lead-based paint hazards, the current status of any hazard reduction and standard treatment measures used previously and any newly-conducted evaluation and hazard reduction activities. The report shall include the information in 40 CFR 745.227(d)(11), and shall:

(i) Identify any lead-based paint hazards previously detected and discuss the effectiveness of any hazard reduction or standard treatment measures used, and list those for which no measures have been used.

(ii) Describe any new hazards found and present the owner with acceptable control options and their accompanying reevaluation schedules.

(iii) Identify when the next reevaluation, if any, must occur, in accordance with the requirements of paragraph (b)(4) of this section.

(c) Response to the reevaluation.

(1) Hazard reduction omission or failure found by a reevaluation. The designated party shall respond in accordance with paragraph (b)(6)(iii)(A) of this section to a report by the risk assessor of a hazard reduction control that has not been implemented or is failing, or that deteriorated lead-based paint is present.

(2) Newly-identified lead-based paint hazard found by a reevaluation. The designated party shall treat each:

(i) Dust-lead hazard or paint lead hazard by cleaning or hazard reduction measures, which are considered completed when clearance is achieved in accordance with Sec. 35.1340.

(ii) Soil-lead hazard by hazard reduction measures, which are considered completed when clearance is achieved in accordance with Sec. 35.1340.

Resolution 2011-3743 Approved 08/24/2011

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.505, 982.503, 982.504, 982.505]]

INTRODUCTION

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the “merger date”. These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

In accordance with the regulations, for those Section 8 participant families where there is a HAP Contract in effect entered into prior to October 1, 1999, the THA will continue to uphold the rent calculation methods of the pre-merger Regular Certificate, and Voucher tenancies until the 2nd regular reexamination of family income and composition following the “merger date”. However, all new leases, moves and new admissions taking effect on or after October 1, 1999 will be subject to the regulations of the new Housing Choice Voucher Program.

The THA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the THA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This Chapter explains the THA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The Rent to Owner is limited only by rent reasonableness. The THA must demonstrate that the Rent to Owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). 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, the family share may not exceed 40 percent of the family's monthly adjusted income.

During the initial term of the lease, the owner may not raise the rent to owner.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP Contract is executed, the THA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically/manually to the HAP Register for the following month. Checks are disbursed by Section 8 Department to the owner each month. Checks will only be prepared for 1st and 15th of the month. Exceptions may be made with the approval of Director of Assisted Housing or his/her designee in cases of hardship.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

Excess Payments

The total of rent paid by the tenant plus the THA housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the THA.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the THA" chapter of this Administrative Plan.

Late Payments to Owners

It is a local business practice in Tampa and Hillsborough County for property managers and owners to charge tenants a reasonable late fee for rents not received by the owner or property manager by the due date, notwithstanding any grace period which is typically five (5) days past the first of the month.

Therefore, in keeping with generally accepted practices in the local housing market, the THA must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

The THA will pay a \$25.00 dollar late fee to the owner for housing assistance payments that are not mailed the owner by the 5th day of the month, if requested by the owner.

[Resolution 3435, adopted 9/23/05 to be effective 8/1/05]

Proof of "Mailed to" date will be the:

The post-mark date

To assist the THA in its outreach efforts to owners, and to provide better customer service, the THA may offer to make automatic monthly HAP deposits into the bank account of the owner. If the owner agree to such an arrangement with the THA, 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 THA will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the THA's control, such as a delay in the receipt of program funds from HUD. The THA will use administrative fee income or the administrative fee reserve as its only source for late payment penalty.

The THA will not use any program funds for the payment of late fee penalties to the owner.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

The THA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

The THA will not approve a lease until the THA determines that the initial rent to owner is a reasonable rent. The THA must re-determine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The THA must re-determine rent reasonableness if directed by HUD and based on a need identified by the THA's auditing system. The THA 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 THA

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the THA information on rents charged by the owner for other units in the premises or elsewhere.

The data for other unassisted units will be gathered by using FLORIDAHOUSING SEARCH.ORG and the company outsourced for determining rent reasonableness.

The market areas for rent reasonableness are **zip codes** within the THA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

Size (number of Bedrooms/square footage)

Location

Quality

Amenities (bathrooms, dishwasher, air conditioning, etc.)

Housing Services

Age of unit

Unit Type

Maintenance

Utilities

Rent Reasonableness Methodology

The Tampa Housing Authority will outsource to a company that has been determined eligible through the procurement process. The company must adhere to the HUD prescribed rent reasonableness policy as well as the THA's policy.

The outsourced company must provide a written methodology that conforms to HUD's policy and considers all 9 factors prior to the agencies execution of the contract to administer the Rent Reasonableness. The outsourced company will provide the rental comparables for all the units that are inspected by that specific company.

The THA also uses FloridaHousingSearch.org which is a unit to unit comparison database to determine rent reasonableness. This system will be used by THA personnel to retrieve comparisons for units inspected by THA. FloridaHousingSearch.org also lists all available units as a courtesy for owners whose units are located within Hillsborough County.

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the THA's discretion, the Voucher Payment Standard amount is set by the THA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The THA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the THA will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

Reasonable Accommodation Payment Standards – permits PHAs to establish a payment standard of up to 120% of the Fair Market Rent (FMR) as a reasonable accommodation for a disabled person, without HUD approval. A PHA may also establish an exception payment standard in excess of 120% as a reasonable accommodation with HUD approval. (HOTMA, 2016).

The THA will establish a single voucher payment standard amount for each FMR area in the THA jurisdiction. For each FMR area, the THA will establish payment standard amounts for each "unit size". The THA may have a higher payment standard within the THA's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

The THA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

[Resolution 3394, adopted 10/22/04]

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The THA will not raise Payment Standards solely to make "high end" units available to Voucher holders. The THA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

Assisted Families' Rent Burdens

The THA will review its voucher payment standard amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30% of their annual adjusted income for rent.

If it is determined that particular unit sizes in the THA's jurisdiction have payment standard amounts that are creating rent burdens for families, the THA will modify its payment standards for those particular unit sizes.

The THA will increase its payment standard within the basic range to help reduce the percentage of annual income that participant families in the THA's jurisdiction are paying.

Quality of Units Selected

The THA will 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 only made when needed to reach the mid-range of the market.

THA Decision Point

The THA will review the average percent of income that families on the program are paying for rent. If more than **40%** of families are paying more than 30% of monthly adjusted income for a particular unit size, the THA will determine whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the THA in this Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the THA may decline to increase the payment standard.

Rent to Owner Increases

The THA 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 THA may consider the average time period for families to lease up under the Voucher program. If more than **50%** of Voucher holders are unable to locate suitable housing within the

term of the voucher and the THA determines that this is due to **75%** of rents in the jurisdiction being unaffordable for families even with the presence of a voucher the Payment Standard may be adjusted.

Lowering of the Payment Standard

Lowering of the FMR 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 FMR without authorization from HUD.

Financial Feasibility

Before increasing the Payment Standard, the THA may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the THA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

File Documentation

A file will be retained by the THA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

F. EXCEPTION PAYMENT STANDARDS

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

G. OWNER PAYMENT IN THE PREMERGER REGULAR CERTIFICATE PROGRAM [24 CFR 982.502(d)]

The HUD regulations relating to owner rent adjustments applicable to the Regular Tenancy Program will be used until the HAP Contract is no longer effective which will be no later than the second regular reexamination of the family after the merger date. Here is where we insert information about the Rent Adjustments for these contracts.

The THA will notify owners of their right to request a rent adjustment.

Owners must request the rent increase in writing on the form provided by the THA. Any increase will be effective the anniversary date of the Contract.

The approval or disapproval decision regarding the adjustment will be based on HUD-required calculations and a rent reasonableness determination. The adjustment may be an increase or a decrease.

The notice of rent change does not affect the automatic renewal of the lease and does not require a new lease or contract or even an executed amendment.

For terminations of Pre-merger Regular Certificate HAPS, see "Contract Terminations" chapter.

H. OWNER PAYMENT IN THE PREMERGER OVER FAIR MARKET RENT TENANCY (OFTO) AND VOUCHER PROGRAM [124 CFR 982.502(b)]

The HUD regulations relating to owner rent adjustments applicable to the Over Fair Market Rent Tenancy Program will be used until the HAP contract is no longer effective, which will be no later than the second regular reexamination of the family after the merger date

I. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM [(24CFR 982.308(g))]

The owner is required to notify the PHA, in writing, at least sixty days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. See 24 CFR 982.503.

PROCEDURAL CLARIFICATION:

Owners upon the annual notice of a rent increase, must submit the request for an increase within 15 days of receipt of the letter. This will reduce the administrative burden by allowing counselors to process the request with the annual re-certification instead of conducting an interim to allow for the rent increase. **(Resolution 2007-3156)**

PROCEDURAL CLARIFICATION

An adjusted payment standard is provided to the Board of Commissioners for approval. Staff will be notified by memorandum of the changed payment standard schedule. The new schedule will be used at annuals and new lease-up's only. To alleviate administrative burdens THA will go forward with changes processed on or after the date staff is notified, as evidenced by memorandum issued.

[Procedural Clarification added to the Adm.Plan on 8/16/04]

Chapter 12

RECERTIFICATIONS

[24 CFR 982.516]

INTRODUCTION

In accordance with HUD requirements, the THA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Re-certifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulation. It is a HUD requirement that families report all changes in household composition. This Chapter defines the THA's policy for conducting annual re-certifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

A. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]

There are two activities the THA must conduct on an annual basis. These activities will be coordinated whenever possible:

Re-certification of Income and Family Composition

HQS Inspection

The THA produces a monthly listing of units under contract to ensure that timely reviews of rent to owner, housing quality, and factors related to Total Tenant Payment/Family Share can be made. Requests for rent adjustments and other monetary changes will be transmitted to the Section 8 Department.

Reexamination of the family's income and composition must be conducted at least annually.

Annual inspections: See "Housing Quality Standards and Inspections" chapter.

Rent Adjustments: See "Owner Rents, Rent Reasonableness and Payment Standards" chapter.

B. ANNUAL RECERTIFICATION/REEXAMINATION [24 CFR 982.516]

Families are required to be re-certified at least annually. At the first interim or annual certification on or after June 19, 1995, family members must report and verify their U.S. citizenship/eligible immigrant status.

Pre-Merger Reexamination Issues

For all pre-merger tenancies the rent calculation methods will not change until the effective date of the second regular reexamination of family income and composition, following the merger date, unless the family moves or accepts a new lease from the owner.

If there has been an increase in the payment standard prior to the effective date of the first regular reexamination of a pre-merger Voucher or Over Fair Market Rent Tenancy Certificate following the merger date, the family will receive the benefit of the higher payment standard, provided there has not been a change in family size or composition that would require the THA to adjust the family unit size.

Moves Between Reexaminations

When families move to another dwelling unit:

An annual re-certification will be scheduled (unless a re-certification has occurred in the last sixty (60) days and the anniversary date will be changed.

Income limits are not used as a test for continued eligibility at re-certification.

Reexamination Notice to the Family

The THA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the THA will provide the notice in an accessible format. The THA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Procedure

The THA's procedure for conducting annual re-certifications will be:

Schedule the date and time of appointments and mail a notification to the family.

At the discretion of the Director of Assisted Housing, annual re-certifications may be done by mail.

Completion of Annual Recertification

The THA will have all re-certifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

Persons with Disabilities

Persons with disabilities who are unable to come to the THA's office will be granted an accommodation by conducting the interview at the person's home or by mail, upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information [24 CFR 982.516(f)]

The THA has established appropriate re-certification procedures necessary to ensure that the income data provided by families is complete and accurate.

The THA will allow the family to complete the re-certification form.

The THA representative will interview the family and enter the information provided by the family on the re-certification form, review the information with the family and have them sign the form.

Requirements to Attend

The following family members will be required to attend the recertification interview:

All adult household members

If the head of household is unable to attend the interview:

The appointment will be rescheduled

The spouse or co-head may re-certify for the family, provided that the head comes in within ten (10) days to re-certify.

Failure to Respond to Notification to Recertify

The written notification must state which family members are required to attend the interview. The family may call to request another appointment date up to the day of the interview.

If the family does not appear for the re-certification interview, and has not rescheduled or made prior arrangements with the THA, the THA will not reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the THA will:

Send family notice of termination and offer them an informal hearing

Exceptions to these policies may be made by the Director of Assisted Housing or his/her designee, if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family

In the notification letter to the family, the THA will include instructions for the family to bring the following:

Documentation of all assets

Documentation of any deductions/allowances

Documentation of income

Documentation of citizenship

Tax Returns

Utility Bills-which must be in the head of household, spouse, other adult or co-head's name.

Verification of Information

The THA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than sixty (60) days old.

Tenant Rent Increase

If tenant rent increases, a thirty day notice is mailed to the family prior to the scheduled effective date of the annual re-certification.

If less than thirty days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the thirty day notice.

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 will be a retroactive increase in rent to the scheduled effective date of the annual recertification.

Tenant Rent Decreases

If tenant rent decreases, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the THA.

C. REPORTING INTERIM CHANGES [24 CFR 982.516]

Program participants must report all changes in household composition to the THA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain THA approval prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The THA will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

Increases in Income

Families will still be required to report any and all changes of income and household composition within 10 days; however, the THA will only conduct an interim change to capture any new source of income to the household. If the new source of income is of the same type of current income, but for a different member of the household, it will be counted. Increases in the same source of existing household income for each specific member will not be counted until the next recertification.

Clarification 02/19/2014

Family members who reported having no income or a deferred income, an interim will be required to capture that income. This is considered same source but new type since income was previously listed as zero or deferred income, e.g., FMLA.

If a family member's income has decreased but not to an amount of zero or no income, and then subsequently reports an increase to the same type and source, no adjustment will be made.

Changes will only be made if it is a different source and or different type.

If child care is being reported as an expense, all household income will be verified and calculated as part of the interim change

Families must report all changes of income and household composition within 10 days in writing on an interim change form.

When families report a loss of a job, the job will be removed, and income decreased the following month.

If a family has a job and starts another job, the new job will also be added.

If a family loses a job, but reports a new job at the same time, the old job will be removed and new job will be added with a 30 day notice if it is an increase. If in this same scenario, the new job would cause a decrease in income, make the change the month following the reported change.

If the HOH has a job, and another member of the family gets a job, the income will be adjusted to reflect the change.

If there is an increase in income due to a pay raise or COLA, the change will not be counted until the next recertification.

If a new member is added to the household, the income will be counted.

(Resolution 2010-3673 adopted 05/19/2010)

Interim Reexamination Policy (superseded by Resolution 2010-3673)

The THA will conduct interim reexaminations when families have an increase in income.

Families will be required to report all changes in income and family composition within ten (10) days of the change. HUD allows Public Housing Agencies to set policy to determine whether or not interim re-certification is required when a participant has an increase in income. The Tampa Housing Authority will continue to conduct interim re-certification that are due to a loss in income and those that would be beneficial to Family Self-Sufficiency participants, and annual increases for entitlement program, such as social security would continue to be reviewed at the annual based on current policy for treatment of increase in income. Interim re-certification policy could have some impact on the funding renewal shortfall. [Resolution 3364 Adopted 5/28/2004]

Decreases in Income

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The THA must calculate the change if a decrease in income is reported.

School Employees

School employees who are considered 10-month employees will no longer have to report a change of income during the summer downtime. Instead of projecting and calculating rent at 12 months, 10 months will be used. Regulation 24 CFR 5.609 indicates all income must be annualized however if it can be determined that the income is for a lesser period, the lesser period can be used to determine the rental portion. However, those families that are no longer considered 10 month employees, will convert back to the 52 week calculation.

(Resolution 2009-3617)

As of September 10, 2014, all Hillsborough County paystubs will be calculated by using gross income. This means, that if you have a paystub that includes escrow, mass retro, and epayback you will not include in your calculation. Please use paystubs that are representative

Changes in Household Composition

Participants must report the addition of household member(s) within 10 days of the change in household composition that is a result of court awarded custody, birth, or adoption.

THA may also allow the addition of household members based on civil union, marriage, or domestic partnership. The addition of the member(s) will not allow for an increase in voucher size or allow for overcrowding of the unit.

Consideration will also be provided to allow for the addition of elderly or disabled that are considered immediate family member(s) who are only being added due to the necessity of care. This must be verified by a professional competent who can render the opinion about the person's situation using normal verification procedures. The addition of the member will not allow for an increase in voucher size or allow for overcrowding of the unit.

Additions to household other than birth, court awarded custody or adoption must be approved by THA prior to being added to composition.

Resolution 2014-3884

Addition of Household Members and Income Verification 24 CFR §§982.516(c) through (e)

When a new member is approved by THA and added to the household, THA will not require an interim reexamination of income for the new household members but will verify other aspects of program eligibility (e.g., SSNs, criminal history, etc.).

RESOLUTION 2016-3997 approved April 27th 2016 (THA will no longer use this policy as of 07/16/2019 and will count income of all new members)

THA Errors

If the THA 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, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

D. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual recertification.

Any changes reported by participants other than those listed in this section will be noted in the file by the staff person but will not be processed between regularly-scheduled annual recertifications.

E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

The THA will not reduce the family share of rent for families whose welfare assistance is reduced by the welfare agency specifically because of:

Fraud in connection with the welfare program; or

noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

However, the PHA will reduce the rent if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits; or

A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or

A family member has not complied with other welfare agency requirements.

Definition of Covered Families

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

Definition of “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 included in the family’s income for purposes of determining rent.

The amount of imputed welfare income is determined by the THA, based on written information supplied to the THA by the welfare agency, including:

The amount of the benefit reduction

The term of the benefit reduction

The reason for the reduction

Subsequent changes in the term or amount of the benefit reduction

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional

income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the Assistant Director will review the calculation for accuracy. If the imputed welfare income amount is correct, the THA will provide a written notice to the family that includes:

A brief explanation of how the amount of imputed welfare income was determined;

A statement that the family may request an informal hearing if they do not agree with the PHA determination.

(See "Verification Procedures" chapter.)

Verification Before Denying a Request to Reduce Rent

The THA will obtain written verification from the welfare agency stating that the family's benefits have been reduced due to fraud or noncompliance with welfare agency economic self-sufficiency or work activities requirements before denying the family's request for rent reduction.

The THA will rely on the welfare agency's written notice to the THA regarding welfare sanctions.

Cooperation Agreements

The THA will execute a Memorandum of Understanding with the local welfare agency to ensure timely and accurate verification of noncompliance.

The THA has taken a proactive approach to culminating an effective working relationship between the THA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Section 8 tenant-based assistance families.

The THA and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 tenant-based assistance families.

Family Dispute of Amount of Imputed Welfare Income

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

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

A statement that the tenant may request an informal hearing.

F. NOTIFICATION OF RESULTS OF RECERTIFICATIONS [HUD Notice PIH 98-6]

The HUD form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by the PHA. If the family disagrees with the rent adjustment, they may request an informal hearing.

G. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) [24 CFR 982.516(c)]

Standard for Timely Reporting of Changes

The THA requires that families report interim changes to the PHA within ten (10) days of when the change occurs. Any information, document or signature needed from the family which is needed to verify the change must be provided within five (5) days of the change.

An exception will be made for TANF recipients who obtain employment. In such cases, families will have to report within ten (10) days of receipt of the Notice of Action from TANF that shows the full adjustment for employment income.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Procedures when the Change is Reported in a Timely Manner

The THA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice.

Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported.

The change may be implemented based on documentation provided by the family, pending third-party written verification.

Procedures when the Change is Not Reported by the Family in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement or make a lump sum payment.

Decrease in Tenant Rent will be effective on the first of the month following the month that the change was reported.

Procedures when the Change is Not Processed by the THA in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the THA in a timely manner.

In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the THA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

H. CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES [24 CFR 982.516(c)]

(See "Subsidy Standards" chapter.)

I. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]

Under the Non-citizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The Noncitizens Rule was implemented on or after November 29, 1996, and mixed families may receive prorated assistance only.

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 under this provision.

J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the THA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum.)

K. ECONOMIC SELF-SUFFICIENCY-TARGETING ZERO INCOME CLIENTS

It is necessary to impose academic and employment requirements and employment search efforts, on families who have been assessed and are claiming no income, contributions, or only child support for a period of more than 6 months if the expenses reported outweigh the income reported. These families will be mandated to participate in the program and will be monitored while the program exists and participation in the promotion of economic self-sufficiency does not violate any rights of the family as it relates to the HCV program. Elderly and disabled families are exempt from participation.

The program will follow the same outline as the FSS program as it relates to assessment and providing contacts for supportive services that will promote economic self-sufficiency. Families also have the option of joining the FSS program.

(RESOLUTION 2008-3552)

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 982.353, 982.355(a)]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the THA's jurisdiction, or to a unit outside of the THA's jurisdiction under Portability procedures. The regulations also allow the THA the discretion to develop policies which define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of, the THA's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

The assisted lease for the old unit has terminated because the THA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.

The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).

The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).

The family or a member of the family is or has been the victim of domestic violence, dating violence or stalking, as provided in 24 CFR part 5, subpart L (see chpt 15) and the move is needed to protect the health or safety of the family or family member. THA may not terminate assistance if the family with or without prior notification to the THA, already moved out of a unit in violation of the lease, if such move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the dwelling unit.

RESOLUTION 2012-3762 Approved February 15th 2012

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

Families will not be permitted to move outside the THA's jurisdiction under portability procedures during the initial year of assisted occupancy, unless they had residency at the time of application.

Families will not be permitted to move more than once in a 12-month period, or any other approved lease term, including portability families.

[Resolution 3431, adopted 9/23/05]

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

The THA will limit and/or deny any request for porting to a jurisdiction with housing expenses exceeding budget limits.

[Resolution 3416, adopted 4/29/05]

The THA will deny permission to move if:

The family has violated a Family Obligation.

The family owes the THA money.

The Director of Assisted Housing or his/her designee may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

Subject to the restrictions on moves, if the family has not been re-certified within the last sixty (60) days, the THA will issue the voucher to move after conducting the recertification as soon as the family requests the move.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual re-certification date will be changed to coincide with the new lease-up date.

The family must be free of any balances owed to the THA or the owner.

Families wishing to port to another jurisdiction will be issued a voucher 45 days before the end of requested date of vacate. Families porting must also sign a form acknowledging his or her responsibilities before porting.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the THA proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the THA simultaneously.

For units under a Certificate HAP contract effective before October 2, 1995, if the family vacates the unit without proper notice in writing to the owner, the family will be responsible for any vacancy loss paid by the THA.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease midmonth. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

D. PORTABILITY [24 CFR 982.353]

Portability applies to families moving out of or into the THA's jurisdiction within the United States and its territories.

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the THA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program. When a family requests to move outside of the THA's jurisdiction, the request must specify the area to which the family wants to move.

If there is more than one PHA in the area in which the family has selected a unit, the THA will choose the receiving PHA.

Restrictions on Portability

Applicants

If neither the head or spouse had a domicile (legal residence) in the THA's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless the THA approves such move.

Upon initial issuance of a voucher the family must be income eligible under the receiving PHA income limits during the initial 12-month period after admission to the program.

Participants

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances.

The receiving and initial PHA agree to allow the move.

The family's move relates to an opportunity for education, job training or employment

A mutual rescission is completed

The THA will not permit families to exercise portability:

If the family is in violation of a family obligation.

If the family owes money to the THA.

If the family has moved out of its assisted unit in violation of the lease.

Receiving PHA's will be required to submit hearing determinations to the THA within fifteen (15) days.

F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

The THA will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher. If administering, the family will be issued a "Portable" Voucher by the THA. The term of the voucher will not expire before the expiration date of any initial PHA voucher. The family must submit a request for approval of tenancy for an eligible unit to the receiving PHA during the term of the receiving PHA voucher. The receiving PHA may grant extensions in accordance with this Administrative Plan. However, if the Family decides not to lease-up in the THA's jurisdiction, they must contact the initial PHA to request an extension.

Incoming portable families whose vouchers are being administered will not be absorbed if funding levels do not permit it.

The THA will absorb incoming Vouchers in cases where the Initial PHA absorbs an equal number of the THA's outgoing Vouchers.

The THA may absorb Vouchers if such absorption does not exceed **10%** of households assisted.

When the THA does not absorb the incoming Voucher, it will administer the Initial PHA's Voucher and the receiving PHA's policies will prevail.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

The receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program.

The THA will issue a "Portability Voucher" according to its own Subsidy Standards. If the Family has a change in family composition which would change the Voucher size, the THA will change to the proper size based on its own Subsidy Standards.

Income and Total Tenant Payment of Incoming Portables [982.353(d)]

As receiving PHA, the THA will conduct a re-certification interview but only verify the information provided if the documents are missing or are over sixty (60) days old, whichever is applicable, or there has been a change in the family's circumstances.

If the THA conducts a re-certification of the family it will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the THA's jurisdiction, the THA will refuse to enter into a contract on behalf of the family at \$0 assistance.

Requests for Approval of Tenancy

A briefing will be mandatory for all portability families.

When the Family submits a Request for Tenancy Approval, it will be processed using the THA's policies. If the Family does not submit a Request for Tenancy Approval or does not execute a lease, the Initial PHA will be notified within ten (10) days by the THA.

If the Family leases up successfully, the THA will notify the Initial PHA within **ten (10) days**, and the billing process will commence. The THA will notify the initial PHA if the family fails to submit a request for approval of tenancy for an eligible unit within the term of the voucher.

If the THA denies assistance to the family, the THA will notify the Initial PHA **within ten (10) days** and the family will be offered a review or hearing.

The THA will notify the Family of its responsibility to contact the Initial PHA if the Family wishes to move outside the THA's jurisdiction under continued portability.

Regular Program Functions

The THA will perform all program functions applicable the tenant-based assistance program, such as:

- Annual reexaminations of family income and composition;

- Annual inspection of the unit; and

- Interim Examinations when requested or deemed necessary by the THA

Terminations

The THA will notify the Initial PHA in writing of any termination of assistance within **ten (10) days** of the termination. If an Informal Hearing is required and requested by the Family, the hearing will be conducted by the THA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the Initial PHA.

The Initial PHA will be responsible for collecting amounts owed by the Family for claims paid and for monitoring repayment. If the Initial PHA notifies the THA that the Family is in arrears or the Family has refused to sign a Payment Agreement, the THA will terminate assistance to the family.

Required Documents

As Receiving PHA, the THA will require the documents listed on the HUD Portability Billing Form from the Initial PHA.

Billing Procedures

As Receiving PHA, the THA will bill the Initial PHA monthly for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees and will be billed monthly unless requested otherwise by the Initial PHA.

THA must send billing to the initial housing authority within 10 days of the HAP execution and no later than 60 days of the voucher expiration.

The THA will bill 100% of the Housing Assistance Payment, and 80% of the Administrative Fee as well as a pro-rated factor as established by HUD (at the Initial PHA's rate) for each "Portability" Voucher leased as of the first day of the month.

The THA will notify the Initial PHA of changes in subsidy amounts and will expect the Initial PHA to notify the THA of changes in the Administrative Fee amount to be billed.

Portability-Initial PHA Responsibilities

Contacting the Receiving PHA:

When a family wishes to move under portability, the family must inform the initial PHA of the area to which the family wishes to move. In the case where the family is not currently a program participant, the initial PHA must determine if the family is income eligible in the area to which the family wishes to move. If the family is not income eligible in the area to which the family wishes to move, the PHA must inform the applicant family they may not move to the area in question and receive voucher assistance. Income eligibility is not re-determined when a participant family (a family that is already under a HAP contract) exercises portability.

The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will bill or absorb the family's voucher. HUD encourages PHAs to communicate this information via email in order to expedite the

families' requests. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request. Denies are discussed later.

Once the portability request is approved, the initial PHA issues the family a voucher and must contact the receiving PHA on the family's behalf. The initial PHA must promptly notify the receiving PHA to expect the incoming family (see section 24 CFR 982.355(c)(2)). This means the initial PHA contacts the receiving PHA on the family's behalf, typically by telephone, fax, or email. Simply referring the family to HUD or to a website for information on the receiving PHA's address does not fulfill the responsibilities of the initial PHA under the program regulations. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA (e.g., the name and telephone number of the staff person responsible for working with incoming portability families and any procedures related to appointments for voucher issuance the receiving PHA has shared with the initial PHA). The Form HUD-52665, Family Portability Information, contains a line that the initial PHA uses to identify the receiving PHA.

Part I of the Form HUD-52665

Once the family is approved to move using portability, the initial PHA completes Part I of the Form HUD-52665 and mails or faxes it to the receiving PHA, along with a copy of the family's voucher issued by the initial PHA, a current copy of Form HUD-50058, and copies of the income verification supporting the form. (Note that in the case of an applicant, the initial PHA has not completed the HUD-50058 and submitted the information to HUD because the family is not yet a new admission. However, the PHA must provide the family information and income information to the receiving PHA in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA.)

Part I of the form provides the date by which the initial billing notice provided by the receiving PHA must be received by the initial PHA. The initial billing submission must be completed and mailed by the receiving PHA within 10 working days of the HAP contract execution but no later than 60 days following the expiration date of the family voucher issued by the initial PHA.

If the initial PHA has not received a billing notice by the deadline and intends not to accept a late billing, the initial PHA must inform the receiving PHA of this decision in writing. If the initial PHA informs the receiving PHA that it will not honor a late billing, the initial PHA is not required to honor any billing notice received after the billing deadline. If the initial PHA still subsequently receives a late billing notice on behalf of the family, it simply returns the late Form HUD-52665 to the receiving PHA, and the receiving PHA must absorb the family.

In certain circumstances, HUD may require the initial PHA to accept the late billing (such as where the receiving PHA does not have the funds to support the voucher and the family would be terminated if the initial PHA refused to accept the late billing). The initial PHA may contact HUD to report the receiving PHA's failure to submit the bill in accordance with these procedures. HUD may take action to address the receiving PHA's failure to do so, which may include reducing the receiving PHA's administrative fee. Additionally, HUD may subsequently transfer units and funding from the receiving PHA to the initial PHA when

it is feasible, since the initial PHA was required to accept the late billing.

Receiving PHA Responsibilities

Processing Responsibilities

The receiving PHA must respond by email or other confirmed delivery method to the initial PHA's inquiry to determine if the family's voucher will be billed or absorbed. HUD encourages PHAs to communicate this information via email in order to expedite the families' requests. If the receiving PHA notifies the initial PHA that they will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date. This prevents placing a financial hardship on the initial PHA and putting a family that has already terminated the lease and vacated their assisted unit and moved to the new jurisdiction at risk of losing their assistance. After receiving the form HUD-52665 and supporting documentation from the initial PHA, the receiving PHA must promptly issue a voucher to the family for its search in the receiving PHA jurisdiction, the term of which may not expire before the expiration date of the initial PHA voucher. HUD expects the receiving PHA to process the family's paperwork and issue the incoming family a voucher for its jurisdiction within two weeks of receiving the HUD-52665 and supporting documentation, provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures. A receiving PHA should not process the family if the initial PHA voucher has already expired when it receives the paperwork from the initial PHA, but should refer the family back to the initial PHA. The initial PHA would have to decide to extend the term of the initial PHA voucher (and the billing deadline) before the receiving PHA would process the portability move in such an instance.

The receiving PHA does not re-determine income eligibility for a portable family that was already receiving voucher assistance and may not delay the family's housing search in issuing the voucher. Should the receiving PHA wish to conduct its own background checks and/or conduct a new income reexamination on a family that has already received housing assistance payments under the initial PHA, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until those processes are completed. However, the PHA may take subsequent action (e.g., recalculating the HAP payment based on updated income information; terminating the family's participation in the program due to criminal background or failing to disclose necessary information) against the family based on the results.

In the case of an applicant family, the receiving PHA may delay issuing or otherwise delay approval of a unit only if the re-certification is necessary to determine income eligibility. For example, if the applicant family initially reported they had no earned income but they are moving because they obtained new employment, the receiving PHA may need to conduct a recertification of income to ensure the family is income eligible in the receiving PHA's

jurisdiction.

The receiving PHA may always delay approval of the unit or issuance of the voucher if the family refuses to comply with the receiving PHA procedures. In any case where the receiving PHA is refusing to process or provide assistance under the portability procedures, the family must be given the opportunity for an informal review or hearing in accordance with 24 CFR 982.554 or 982.555.

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA voucher, either when it initially issues its own voucher or by subsequently extending its own voucher's term. However, if the receiving PHA provides the family with search time beyond the expiration date of the initial PHA's voucher, it must inform the initial PHA of the extension and should bear in mind the billing deadline that is based on the expiration date of the voucher issued 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 cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) so that it will be received by the initial PHA by the deadline date.

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 or wishes 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 extensions of search time provided by the receiving PHA voucher are only valid for the family's search in the receiving PHA jurisdiction. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

The receiving PHA may absorb the family into its own program once the HAP contract is executed on behalf of the family by the receiving PHA, assuming it has funding available under its ACC to do so and such a decision will not result in over-leasing for the Calendar Year. The receiving PHA may also absorb a portable family assisted through a billing arrangement by terminating the billing arrangement with the initial PHA. In such a case, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family.

Although a receiving PHA notifies the initial PHA of its intent to absorb an incoming family early in the portability process, a PHA does not technically "absorb" a family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA jurisdiction. PHAs may not engage in sham or fake portability paperwork exercises in an attempt to address their utilization or leasing problems. If the family is not placed under HAP contract in the receiving PHA jurisdiction, the receiving PHA cannot absorb the family.

Part II of Form HUD-52665

The receiving PHA sends Part II of Form HUD-52665 to the initial PHA. If the receiving PHA will bill the initial PHA, the receiving PHA not only completes Part II of the Form HUD-52665, but also attaches a copy of the new Form HUD-50058 before returning it to the initial PHA. The instructions of the Form HUD-52665 provide that the receiving PHA must complete and mail (which may include electronic mail or fax) Part II of the form within 10 working days from the date a HAP contract is executed on behalf of a family but no later than 60 days following the expiration date of the family voucher issued by the initial PHA.

The initial PHA is generally not obligated to honor initial billings that are not completed and mailed by the receiving PHA within 10 working days after the date the HAP contract is executed. (Note that it is the date the HAP contract is executed, not the effective date of the HAP contract, which is at issue. For instance, if a PHA executes a HAP contract within 60 days of the approval of the unit, the HAP contract may be retroactive to the date the unit was approved. It is the date the PHA executed the contract, not the retroactive effective date of the contract, that establishes the deadline by which the initial billing must be mailed, emailed or faxed.) The initial PHA must immediately inform the receiving PHA in writing of its decision not to accept the late billing submission. **A receiving PHA that failed to send the initial billing within 10 working days following the date the HAP contract is executed is generally required to absorb the family into its own program unless the initial PHA is willing to accept the late submission.**

HUD may in certain instances require the initial PHA to honor a billing submission that is received after the 10 day deadline (such as where the receiving PHA is over- leased and is in danger of not being able to stay under unit months available for the Calendar Year). In such a case HUD may take action to address the receiving PHA's failure to submit the notification in a timely manner, which may include reducing the receiving PHA's administrative fee and subsequently transferring units and funds from the receiving PHA to the initial PHA.

Timing of the Initial and Subsequent Billing Payments

The initial PHA must pay the first billing amount due within 30 calendar days of receipt of Part II of the Form HUD-52665. Subsequently, the initial PHA must make payment each month the billing arrangement is in effect **no later than the fifth working day of each month**. The payment must be provided in a form and manner that the receiving PHA is able and willing to accept.

In many cases billing difficulties simply result from miscommunications and the PHAs involved are able to resolve the problem with HUD's assistance. HUD encourages PHAs to work cooperatively to resolve billing difficulties. However, it is ultimately the responsibility of the initial PHA to make billing payments in a timely manner.

The program regulations at 24 CFR 982.355(f)(1) provide that HUD may transfer funds for assistance to portable families to the receiving PHA from funds available under the initial PHA ACC. Upon request of the receiving PHA, HUD will exercise this authority to transfer baseline units and funding from the budget authority of the initial PHA to the receiving PHA in cases where the initial PHA fails to comply with the initial and subsequent monthly billing

due dates described above (see section 12 of this notice for further information on the process by which units and funding may be transferred as a result of non-compliance with billing due dates).

The initial PHA may not terminate or delay making payments under existing billing arrangements as a result of over- leasing or funding shortfalls in the initial PHA's program. PHAs may only terminate HAP contracts as the result of insufficient funding in accordance with 24 CFR 982.454 to which they are a party.

On-going Responsibilities

The receiving PHA must send the initial PHA a copy of the updated Form HUD-50058 at each annual recertification 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. The Form HUD-50058 should be sent to the initial PHA as soon as the family's annual reexamination is complete but no later than 10 working days following the effective date of the annual reexamination. The purpose of this notification is to serve as an annual "reconciliation" to assist both PHAs in fulfilling its accounting and record-keeping responsibilities.

Should the initial PHA fail to receive an updated Form HUD-50058 within 30 days after the effective date of the annual recertification date, it must send a letter to the receiving PHA to verify the status of the family and a copy of the letter must be sent to the Director (or the staff person designated by the Director) of the Office of Public Housing (OPH) in the HUD Area Office with jurisdiction over the initial PHA. If the receiving PHA fails to correct the problem within 30 days following the notification (e.g., initial PHA informs receiving PHA of late annual billing paperwork June 15th and the paperwork is not received by July 15th), the initial PHA may request by memorandum to the Director of the OPH with jurisdiction over the initial PHA that HUD require the receiving PHA to absorb the vouchers in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. A copy of the memorandum must be sent to the receiving PHA.

The initial PHA must continue to make the monthly payment to the receiving PHA until instructed otherwise by the HUD Area Office.

The OPH will notify the receiving PHA (and the OPH director in the HUD Area Office with jurisdiction over the receiving PHA) within 15 working days of receiving the initial PHA memorandum requesting the absorption of units. The OPH will provide the receiving PHA with 15 working days to respond and provide any supporting documentation if the receiving PHA is contesting whether the paper in question was late. The OPH in the HUD Area Office with jurisdiction over the initial PHA is the lead HUD office in resolving any dispute over the timeliness of the annual submission. That office is responsible for examining all documentation submitted by the PHAs and then determining if the paperwork was late if the receiving PHA contests the initial PHA's report. The OPH must render a decision no later than 15 working days following the deadline by which the receiving PHA had to respond to the OPH memorandum.

The OPH will send a letter to both the initial and receiving PHAs with copies to the Area Office with jurisdiction over the receiving PHA indicating whether the vouchers should be absorbed by the receiving PHA. If the vouchers are to be absorbed by the receiving PHA,

the billing arrangement on behalf of the family or families in question ceases at the first of the following month after the date of the OPH letter (e.g., if the OPH letter is dated June 15, the billing arrangement ends July 1). The initial PHA is still responsible for any outstanding payments due to the receiving PHA.

HUD may in certain instances require the initial PHA to honor a late submission of the annual recertification documents (such as where the receiving PHA is over- leased and is in danger of not being able to stay under unit months available for the Calendar Year). In such a case HUD may take action to address the receiving PHA's failure to submit the notification in a timely manner, which may include reducing the receiving PHA's administrative fee. The receiving PHA is also required to send a new Form HUD-52665 along with the Form HUD-50058 to report any change in the billing amount, if applicable. 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. However, under no circumstances should the notification be later than 10 working days following the effective date of the change in the billing amount.

If the receiving PHA fails to send the Form HUD-52665 within 10 working days following the effective date of the change in the billing amount, the initial PHA is not responsible for paying any increase in the monthly billing amount incurred prior to the notification. For example, assume the billing amount increased effective April 1, 2010. The receiving PHA does not send the Form HUD-52665 reflecting the change until July 9, 2010. In this case, the initial PHA would not be responsible to pay for any increase in the billing amount prior to the forthcoming monthly payment for August 2010. 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. For example, a decrease of \$50 was effective April 1, 2010, but the initial PHA did not receive the revised HUD-52665 until July 9, 2010. The initial PHA paid an additional \$200 (\$50 for April, May, June and July) and would offset this amount in future payments.

If the receiving PHA is absorbing a family for which it has been billing or if the housing assistance payments are terminated for any reason, the receiving PHA is encouraged to provide adequate notice of the effective date of the absorption or termination to avoid having to return a payment. In any event the receiving PHA **must** notify the initial PHA no later than 10 working days following the effective date of the termination of the billing arrangement. The receiving PHA may not retroactively absorb families for which the receiving PHA was previously billing for any time period that commences before 10 working days from the time the receiving PHA notifies the initial PHA of the absorption, with one exception. If a PHA is experiencing a funding shortfall and needs to take steps to avoid terminations of assistance, Notice 2009-44, Cost-Savings Measures in the Housing Choice Voucher (HCV) Program, allows a receiving PHA to retroactively absorb families for which the receiving PHA was previously billing if the receiving PHA and the initial PHA agree. In these cases, the receiving PHA reimburses the initial PHA for payments made back to the effective date of the absorption but only for the current calendar year.

In the case where a family currently under a billing arrangement subsequently decides it

wants to move under portability to yet another jurisdiction, the receiving PHA does not issue the family a voucher in order to do so. Instead, the receiving PHA notifies the initial PHA of the family request to port to another jurisdiction. The initial PHA is responsible for issuing the family's voucher and sending the Form HUD-52665 and supporting documentation to the new receiving PHA. Good communication between all three PHAs is very important in such a circumstance.

Notification of Change in Billing Amount or Other Action – The receiving PHA notifies the initial PHA of any change in the billing amount as soon as possible (preferably before the effective date to avoid retroactive adjustments) but in no circumstance any later than 10 working days following the effective date of the change.

Portability-Procedures for the Transfer of Units and Funding as a Result of Late Payments

In the case where the initial PHA fails to make the monthly payment to the receiving PHA by the fifth working day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family or families, the total billing payment that was late or has yet to be paid, and the date the payment was ultimately received (if received at all). A copy of the notification must be sent to the Director (or the staff person designated by the Director) of 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 (e.g., receiving PHA informs of late payment in June and the August payment is late), the receiving PHA may request by memorandum to the Director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit or units and funding in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. A copy of the memorandum must be sent to the initial PHA. The OPH will notify the initial PHA (and the OPH director in the HUD Area Office with jurisdiction over the initial PHA) within 15 working days of receiving the receiving PHA's memorandum requesting the transfer of units and funds. The OPH will provide the initial PHA with 15 working days to respond and provide any supporting documentation if the initial PHA is contesting whether the billing payments in question were late. The OPH in the HUD Area Office with jurisdiction over the receiving PHA is the lead HUD office in resolving any dispute over the timeliness of the billing payments. That office is responsible for examining all documentation submitted by the PHAs and then determining if the billing payments were late if the initial PHA contests the receiving PHA's report. The OPH must render a decision no later than 15 working days following the deadline by which the initial PHA had to respond to the OPH memorandum.

If the OPH determines that the payments in question were late, the OPH will send a memorandum to the Housing Voucher Financial Management Division (with copies to the Area Office with jurisdiction over the initial PHA as well as to both PHAs) indicating the number of units to be permanently transferred from the initial PHA to the receiving PHA. The number will correspond with the number of families for which billing payments were late. Within 30 days of receiving the OPH memorandum recommending transfer of units and

funds, HUD will reduce the baseline number of units and concomitant budget authority from the initial PHA's ACC and increase the baseline number of units and budget authority on the receiving PHA's ACC in order to adjust the PHA program size as a result of poor portability billing performance. HUD will use the revised baseline numbers to readjust the funding. The billing arrangement on behalf of the family or families in question ceases with the transfer of the unit, although the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

These transfer policies notwithstanding, failure to comply with the financial procedures required by HUD, including the billing and payment deadlines outlined above, may also result in the reduction of administrative fees.

Portability-Penalties for the Receiving PHA's Failure to Inform the Initial PHA of the Termination of a Billing Arrangement in a Timely Manner

If HUD determines that the receiving PHA has not notified the initial PHA that a billing arrangement has been terminated in a timely manner and has continued to accept payments from the initial PHA, HUD may reduce administrative fees for the receiving PHA.

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 3 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:

- The receiving PHA must return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, the receiving PHA must 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. HUD may, in its discretion, take the following actions:
 - Direct the PHA not to utilize their administrative fee reserve account in accordance with 24 CFR 982.155(b)(3).
 - Reduce the administrative fees for the receiving PHA by up to 10 percent of the monthly billing amount in question for each month that the billing payments continued after the billing arrangement was terminated, taking into consideration the circumstances of the particular case. The OPH in the HUD Area Office with jurisdiction over the receiving PHA will inform the PHA by letter of the amount of the sanction imposed as a result of the PHA's failure to promptly notify the initial PHA that the billing arrangement is terminated. The OPH must send a copy of the letter to the FMC and the FMD. (For example, if the receiving PHA was billing the initial PHA \$600 a month on behalf of a family and collected four monthly billing payments beyond the billing arrangement termination date (\$2400), the receiving PHA is responsible for returning \$2400 to the initial PHA. In addition, HUD may

reduce the PHA administrative fee by up to \$240 as the sanction for failing to terminate the billing arrangement in a timely manner.)

- Further reduce the administrative fee if the receiving PHA does not promptly return the overpayment to the initial PHA.

This general policy does not in any way restrict the OPH Director from exercising additional remedial action in the event that the receiving PHA failed to notify initial PHAs that the billing arrangements have been terminated.

The attachment to this notice provides guidance on how refunded amounts should be recorded in the financial records by both the initial PHA and the receiving PHA.

Denying Family Requests to Move

A PHA may only deny a family's request to move if it has grounds to do so under the program regulations, which are as follows:

- 1) The PHA has grounds to deny the move because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553.
- 2) The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the initial PHA jurisdiction for twelve months since being admitted to the program (see 24 CFR 982.353(c)).
- 3) The family is an applicant and is not income-eligible (see 24 CFR 982.353(d)(1)) in the area in which they wish to initially lease a unit.
- 4) The PHA has established policies on the timing and frequency of moves in accordance with 24 CFR 982.314(c)(2), and the requested move does not comply with those policies.²
- 5) The PHA does not have sufficient funding for continued assistance to support the move in accordance with 24 CFR 982.314(e)(1).

In addition, the voucher regulations at 24 CFR 982.353(b) further provide that the initial PHA must deny a family's request to move if the family has moved out of its assisted unit in violation of the lease. However, as previously noted in HUD Notice PIH 2007-5, the Violence Against Women and Justice Department Reauthorization Act 2005 (VAWA 2005) amended section 8(r) of the U.S. Housing Act to provide an exception to the prohibition against a family moving under the portability provisions in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in violation of the lease under the portability procedures if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit. The final rule, HUD Programs, Violence Against Women Act Conforming Amendments, was published in the *Federal Register* on October 27, 2010.

If the circumstances described above exist, the PHA may allow a family to move under portability procedures if the only basis for the denial is that the family is violating the lease agreement. The PHA may request that the family provide the HUD-approved certification form (Form HUD-50066), or other acceptable documentation in order to verify the family's claim that the request to move is prompted by incidences of abuse in the unit.

² The regulations at §982.314(c)(2) provide that the PHA may establish policies that prohibit any move by the family during the initial lease term, and policies that prohibit more than one move by the family during any one year period.

Denying Family Requests to Move Due to Insufficient Funding

A PHA may only deny a request to move to a higher cost unit within the PHA's jurisdiction or to higher cost area in accordance with 24 CFR 982.314(e)(1) if the PHA would be unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments.

The PHA must provide written notification to the local HUD Office when they determine it is necessary to deny moves to a higher cost unit based on insufficient funding. The notification must include the following documentation:

1. A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. The projection must not include vouchers that have been issued but are not yet under contract.

2. A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves to a higher cost unit is in place.

3. A copy of the PHA's policy stating how the PHA will address families who have been denied moves. The requirements of the policy are described below.

For moves within the initial PHA's jurisdiction, a "higher cost unit" is defined as a unit in which the PHA would have to pay a higher subsidy amount due to an increase in the gross rent for the new unit.

For portability moves, a "higher cost area" is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or "more generous" subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). Before denying the family's request to move due to insufficient funding, the initial PHA must contact the receiving PHA and confirm via email or other confirmed delivery method whether the receiving PHA will administer or absorb the family's voucher. HUD encourages PHAs to communicate this information via email in order to expedite the families' requests. Once the receiving PHA makes the commitment to absorb the voucher, they cannot reverse their decision. If the receiving PHA is willing to absorb the family, there are no grounds to deny the portability move under 24 CFR 982.314(e)(1). The initial PHA may also take into consideration any reported changes in the family's income or composition that may result in a decreased subsidy amount therefore not resulting in an increased cost to the initial PHA.

A PHA **may not** deny a requested move due to insufficient funding under 24 CFR 982.314(e)(1) simply because the family wishes to move to a higher cost unit within the PHA's jurisdiction or to a higher cost area.

A PHA **may not** deny requests to move, including portability moves, if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family or if the area the family has selected is a lower cost area. A "lower cost area" is defined as an area where the subsidy amount is equal to or lesser than the current subsidy paid because of lower payment standards or less generous subsidy standards (e.g. the receiving PHA issues a 2- bedroom voucher to a family that received a 3-bedroom voucher from the initial PHA).

In projecting whether there is sufficient funding available for the remainder of the calendar year in order to approve the move, the PHA may make reasonable estimates to factor in conditions such as pending rent increases and the attrition rate for families leaving the program. However, a PHA may not include projected costs for vouchers that have been issued to families from the waiting list but not yet leased as part of this analysis. Vouchers that have been issued to those on the waiting list cannot be considered an expense for purposes of determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and the PHA is legally obligated to make HAP payments. HUD has posted a spreadsheet on the HUD Housing Choice Voucher Program website that may be used by a PHA to determine if sufficient funding is available to support to a move. The address is: <http://www.hud.gov/offices/pih/programs/hcv>. This spreadsheet is an example of one method of determining if sufficient funding is available and a PHA is not required to use it when making its determination to deny a move under 24 CFR 982.314(e)(1). However, in any case where the PHAs denies a family's request to move in accordance with 24 CFR 982.314(e)(1), the PHA must be able to demonstrate how it determined that sufficient funding was unavailable when the PHA denied the family's request to move.

Portability and Project-based Assistance: In accordance with 24 CFR 983.2(b)(2), provisions on portability do not apply to the PBV program. A family that is porting into a receiving PHA's jurisdiction may only receive a tenant-based voucher or homeownership assistance. In order for a tenant based voucher holder to be housed in a PBV unit, the family would have to apply to the receiving PHA's PBV program and give up their tenant-based voucher prior to being housed in the PBV unit.

Resolution 2011-3742 approved August 24, 2011

Chapter 14

CONTRACT TERMINATIONS

[24 CFR 982.311, 982.314]

INTRODUCTION

The Housing Assistance Payments (HAP) Contract is the contract between the owner and the THA which defines the responsibilities of both parties. This Chapter describes the circumstances under which the contract can be terminated by the THA and the owner, and the policies and procedures for such terminations.

A. CONTRACT TERMINATION [24 CFR 982.311]

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the THA may be terminated by the THA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the THA to the owner after the month in which the Contract is terminated. The owner must reimburse the THA for any subsidies paid by the THA for any period after the contract termination date.

If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from the THA for vacancy loss under the provisions of Certificate HAP contracts effective before October 2, 1995.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)]

Family termination of the lease must be in accordance with the terms of the lease.

C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS [24 CFR 982.310, 982.455]

If the owner wishes to terminate the lease, the owner is required under the lease, to provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations.

During the term of the lease the owner may only evict for:

Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;

Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.

Other good cause.

During the initial term of the lease, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do (see 982.310)

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 they have engaged in the criminal activity:

Regardless of arrest or conviction

Without satisfying the standard of proof used for a criminal conviction

Termination of Tenancy Decisions

If the law and regulation permit the owner to take an action but don't require action to be taken, the owner can decide whether to take the action. Relevant circumstances for consideration include:

The seriousness of the offense

The effect on the community

The extent of participation by household members

The effect on uninvolved household members

The demand for assisted housing by families who will adhere to responsibilities

The extent to which leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action

The effect on the integrity of the program

Exclusion of culpable household member

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit.

Consideration of Rehabilitation

When determining whether to terminate the tenancy for illegal drug use or alcohol abuse, the owner may consider whether the member:

Is no longer participating

Has successfully completed a supervised drug or alcohol rehab program

Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of the three (above).

Actions of termination by the owner must be consistent with the fair housing and equal opportunities as stated in 24 CFR 5.105.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

The THA requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for the THA's decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the THA 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.

The THA will continue housing assistance payments until the family moves or is evicted from the unit.

If the action is finalized in court, the owner must provide the THA with the documentation, including notice of the writ of possession.

The THA must continue making housing assistance payments to the owner in accordance with the Contract as long as the tenant continues to occupy the unit and the Contract is not violated. By endorsing the monthly check from the THA, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

The THA provides an information bulletin to owners describing eviction procedures under state and local law and THA requirements.

If an eviction is not due to a serious or repeated violation of the lease, and if the THA has no other grounds for termination of assistance, the THA may issue a new certificate or voucher so that the family can move with continued assistance.

D. TERMINATION OF THE CONTRACT BY PHA [24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3)]

The term of the HAP contract terminates when the lease terminates, when the THA terminates program assistance for the family, and when the owner has breached the HAP contract. (See "Owner Disapproval and Restriction" chapter)

The THA may also terminate the contract if:

The THA terminates assistance to the family.

The family is required to move from a unit when the subsidy is too big for the family size (pre-merger Certificate Program) or the unit does not meet the HQS space standards because of an increase in family size or a change in family composition (Certificate and Voucher Programs).

Funding is no longer available under the ACC.

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

Termination of Premerger Certificate HAPS [24 CFR 982.502(d)]

The THA must terminate program assistance under any outstanding HAP contract for a regular tenancy under the pre-merger certificate program at the effective date of the second regular reexamination of family income and composition on or after the merger date. At such termination of assistance, the HAP contract will automatically terminate. The THA will give the owner and family at least 120 days written notice of such termination. The THA will offer the family the opportunity for continued tenant-based assistance under the voucher program.

Any OFTO tenancy HAP contract entered into prior to the merger date will automatically be considered as a tenancy under the Voucher program. Such tenancies will be subject to the requirements of the voucher program, including calculation of the Housing Assistance Payment.

However, as stated earlier in this section, pre-merger HAP calculations will remain applicable until the effective date of the second regular reexamination of family income and composition on or after the merger date.

Notice of Termination

When the THA terminates the HAP contract under the violation of HQS space standards, the THA will provide the owner and family written notice of termination of the contract, and the

HAP contract terminates at the end of the calendar month that follows the calendar month in which the THA gives such notice to the owner.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

[24 CFR 5.902, 5.902, 5.903, 5.905, 982.4, 982.54, 982.552, 982.553]

INTRODUCTION

The THA may deny or terminate assistance for a family because of the family's action or failure to act. The THA will provide families with a written description of the Family Obligations under the program, the grounds under which the THA can deny or terminate assistance, and the THA's informal hearing procedures. This Chapter describes when the THA is required to deny or terminate assistance, and the THA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A. GROUNDS FOR DENIAL/TERMINATION [24 CFR 982.54, 982.552, 982.553]

If denial or termination is based upon behavior resulting from a disability, the THA will delay the denial or termination in order to determine if there is an accommodation, which would negate the behavior resulting from the disability.

Form of Denial/Termination

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the THA waiting list
- Denying a voucher or withdrawing a certificate or voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Mandatory Denial and Termination [24 CFR 982.552(b) (10)(d)]

The THA **must** deny assistance to applicants, and terminate assistance for participants:

If any member of the family fails to sign and submit HUD or THA required consent forms for obtaining information.

If no member of the family is a U.S. citizen or eligible immigrant. (See Section D)

If the family is under contract and 180 days (or 12 months, depending on the HAP contract used) have elapsed since the THA's last housing assistance payment was made. (See "Contract Terminations" chapter.)

The THA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

The THA must deny or terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.

The THA must deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status.

The THA must permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

The THA must deny admission to an applicant if the THA determines that any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. See Section B of this chapter for the THA's established standards regarding criminal background investigation and determining whether a member of the household is subject to a lifetime registration requirement under a State sex offender registration program

The THA must deny admission to the program for applicants, and terminate assistance for program participants if the THA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. See Section B of this chapter for the THA's established standards.

The THA must deny admission for three years if any member of the family has been evicted from federally assisted housing for a drug related crime.

The THA must deny admission to the program for an applicant or terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with Part 5, subparts B and F.

The PHA must terminate assistance if a participating family fails to disclose and document the complete and accurate social security number of each household member. The requirement does not apply to:

- Non-contending household members - Residents who were at least 62 years old on January 31, 2010, and who state that they do not have a social security number

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Grounds for Denial or Termination of Assistance [24 CFR 982.552, c]

The THA **may** deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

The family violates any family obligation under the program as listed in 24 CFR 982.551.

Any member of the family has been evicted from federally assisted housing within the last five years.

If any PHA has terminated assistance under the program for any member of the family within five years.

If any member of the family commits 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 the THA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family breaches an agreement with a PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. The THA at its discretion may offer the family the opportunity to enter into a repayment agreement. The THA will prescribe the terms of the agreement. (See "Repayment Agreements" chapter.)

The family has engaged in or threatened abusive or violent behavior toward THA personnel.

"Abusive or violent behavior towards THA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.

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

Actual physical abuse or violence will always be cause for termination.

Any member of the family whose drug or alcohol abuse interferes with the health, safety or peaceful enjoyment of other project residents.

If any member of the family commits drug-related criminal activity, or violent criminal activity. See Section B.

Refer to "Eligibility for Admission" chapter, "Other Criteria for Admission" section for further information.

B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY

Purpose

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the Tampa Housing Authority to fully endorse and implement a policy designed to:

Help create and maintain a safe and drug-free community

Keep our program participants free from threats to their personal and family safety

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

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

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

Administration

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups.

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

This policy will be posted on the THA's bulletin board and copies made readily available to applicants and participants upon request.

Screening of Applicants

In an effort to prevent future drug related and other 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, and as required by 24 CFR 982, Sub part L and CFR Part 5, Subpart J, the THA will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior.

Such screening will apply to any member of the household who is 18 years of age or older.

HUD Definitions

Covered person, for purposes of 24 CFR part 982 and this chapter, means a tenant, any member of the tenant's household, guest or another person under the tenant's control

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 the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance. Drug-related criminal activity means *on or near the premises*.

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 do so on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

Household, for the purposes of 24 CFR Part 982 and this chapter, means the family and THA approved live-in aid.

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 includes any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity is being engaged in by any family member.

Establishing Standards for Violation

The THA will deny participation in the program to applicants and terminate assistance to participants in cases where the THA determines there is reasonable cause to believe that the person is illegally using a controlled substance or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the THA determines that there is a pattern of illegal use of a controlled substance or pattern of alcohol abuse.

The THA will consider the use of a controlled substance or alcohol to be a pattern if there is more than one incident during the previous twelve (12) months.

“Engaged in or engaging in” violent criminal activity means any act within the past three (3) years by applicants or participants, and household members, which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person of another, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, or guests.

The activity is being engaged in by any family member.

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

In evaluating evidence of negative past behavior, the THA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

Drug Related and Violent Criminal Activity

Ineligibility if Evicted for Drug-Related Activity: Persons evicted from federally subsidized housing because of drug-related criminal activity are ineligible for admission to the Section 8 program for a three year period beginning on the date of such eviction.

Applicants will be denied assistance if they have been:

Arrested from a unit assisted under the Housing Act of 1937 due to violent criminal activity within the last three years prior to the date of the certification interview.

Subject to sexual predator registration with state law enforcement.

Participants will be terminated who have been:

Arrested from a unit assisted under the Housing Act of 1937 due to drug-related or violent criminal activity within the last 3 years prior to the date of the notice to terminate assistance, and whose activities have created a disturbance in the building or neighborhood.

If the family violates the lease for drug-related or violent criminal activity, the THA may proceed with the termination of assistance. Prior to issuing a notice to terminate or deny assistance, THA will allow the client the opportunity to dispute the evidence. THA will take into consideration of the following:

- The extent to which the family has shown personal responsibility and whether they have taken reasonable steps to prevent or mitigate the offending action;
- The length of time since the violation occurred, the family's recent history, past history of violations, and the likelihood of favorable conduct in the future;
- The effects that the termination or denial will have on other family members who were not involved in the action;
- Any rehabilitation efforts that the applicant or participant has undertaken for the behavior that led to arrests or conviction
- The circumstances leading to the eviction no longer exist
- The person demonstrates successful completion of a credible rehabilitation program approved by the THA

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In appropriate cases, the THA may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the THA may consider individual circumstances with the advice of Juvenile Court officials.

Termination of Assistance for Participants

Under the family obligations listed at 24 CFR 982.551, the members of the household 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. HUD regulations 24 CFR 982.553 (b) requires the THA to establish standards for termination of assistance when this family obligation is violated.

The Tampa Housing Authority has established the following standards for termination of assistance for the family when a household member has violated the family obligation to refrain from participating in drug-related or violent criminal activity.

Assistance may be terminated for participants who have been:

Arrested for drug-related or violent criminal activity during participation in the program, and within the last three (3) years prior to the date of then notice to terminate assistance. THA prior to issuing a notice of intent to terminate, must further investigate the arrest to determine if the behavior which led to the arrest continues to exist or if the individual was convicted of the crime by a court of law. Prior to issuing the intent to terminate as it relates to arrest records and police reports, individuals will be offered the opportunity to dispute the information. If the client does not dispute or does not provide information or evidence contrary to the agencies evidence, a notice of intent to terminate will be issued.

Terminating Assistance for Alcohol Abuse by Household Members

Under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if the THA determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

Notice of Termination of Assistance

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

The reason(s) for the proposed termination,

The effective date of the proposed termination,

The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.

The date by which a request for an informal hearing must be received by the THA.

If the THA proposes to terminate assistance for criminal activity as shown by a criminal record, the THA will provide the subject of the record and the tenant with a copy of the criminal record.

The THA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

Required Evidence

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

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

Confidentiality of Criminal Records

The THA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed, will be housed in a locked file with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance and to upper level Section 8 management.

Misuse of the above information by any employee will be grounds for termination of employment.

If the family is determined eligible for initial or continued assistance, the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, the criminal record information shall be shredded immediately upon completion of the review or hearing procedures and a final decision has been made.

The THA will document in the family's file the circumstances of the criminal report and the date the report was destroyed.

C. FAMILY OBLIGATIONS [24 CFR 982.551]

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

The family must supply any information requested by the THA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

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

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

The family is responsible for an HQS breach caused by the family as described in 982.404(b).

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

The family may not commit any serious or repeated violations of the lease.

The family must notify the owner and, at the same time, notify the THA before the family moves out of the unit or terminates the lease upon notice to the owner.

The family must promptly give the THA 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 THA. The family must promptly inform the THA of the birth, adoption or court-awarded custody of a child. The family must request THA approval to add any other family member as an occupant of the unit.

The family must promptly notify the THA if any family member no longer resides in the unit.

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

Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.

The family must not sublease or let the unit.

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

The family must supply any information or certification requested by the THA to verify that the family is living in the unit, or relating to family absence from the unit, including any THA-requested information or certification on the purposes of family absences. The family must cooperate with the THA for this purpose. The family must promptly notify the THA of absence from the unit.

The family must not own or have any interest in the unit.

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

The members of the family may not engage in drug-related criminal activity or violent 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. The household members must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

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

Housing Authority Discretion [24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the THA has discretion to consider all of the circumstances in each case, including the seriousness of the case. The THA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The THA may also review the family's more recent history and record of compliance, and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The THA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. The THA may permit the other members of a family to continue in the program. Members may complete required rehabilitation and/or counseling.

Enforcing Family Obligations

Explanations and Terms

The term "Promptly" when used with the Family Obligations always means "within ten (10) days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

HQS Breach

The inspector will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by Inspections Manager.

Lease Violations

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violation of the lease.

If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the THA determines that the cause is a serious or repeated violation of the lease based on available evidence.

If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and

If there are police reports, neighborhood complaints or other third party information, that has been verified by the THA.

Nonpayment of rent is considered a serious violation of the lease.

Notification of Eviction

If the family requests assistance to move and they did not notify the THA of an eviction within ten (10) days of receiving the Notice of Lease Termination, the move will be denied.

Proposed Additions to the Family

The THA will deny a family's request to add additional family members who are:

Persons who have been evicted from public housing.

Persons who have previously violated a family obligation listed in 24CFR 982.51 of the HUD regulations.

Persons who have been part of a family whose assistance has been terminated under the Certificate or Voucher program.

Persons who commit drug-related criminal activity or violent criminal activity.

Persons who do not meet the THA's definition of family.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

Persons who currently owe rent or other amounts to the THA or to another THA in connection with Section 8 or public housing assistance under the 1937 Act.

Persons who have engaged in or threatened abusive or violent behavior toward THA personnel.

If the addition of the members will create an under-housed condition and will ultimately increase the voucher size.

If the addition of the members will create an existence of a dual family.

Family Member Moves Out

Families are required to notify the THA if any family member leaves the assisted household. When the family notifies the THA, they must furnish the following information:

The date the family member moved out.

The new address, if known, of the family member.

A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-making Activity in Unit

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation.

If the THA 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 THA determines the business is not legal, it will be considered a program violation.

Interest in Unit

The owner may not reside in the assisted unit regardless of whether (s)he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the Certificate Program.

Fraud

In each case, the THA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

D. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518]

Denial or Termination due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The THA must offer the family an opportunity for a hearing. (See "Eligibility for Admission" chapter, section on Citizenship/Eligible Immigration Status.)

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

False or Incomplete Information

When the THA 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 THA will give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status.

The THA will then verify eligible status, deny, terminate, or prorate as applicable.

The THA will deny or terminate assistance based on the submission of false information or misrepresentation.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the THA either after the INS appeal or in lieu of the INS appeal.

After the THA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

E. ZERO (\$0) ASSISTANCE TENANCIES [24CFR 982.455 (a)]

The family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180 day timeframe, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, the PHA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION [24 CFR 982.551, 982.552(c)]

If the family has misrepresented any facts that caused the THA to overpay assistance, the THA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses the THA in full within thirty calendar days.

G. MISREPRESENTATION IN COLLUSION WITH OWNER [24 CFR 982.551, 982.552 (c)]

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the THA will deny or terminate assistance.

In making this determination, the THA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

H. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552 (c)]

It is a Family Obligation to supply information, documentation, and certification as needed for the THA to fulfill its responsibilities. The THA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the PHA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the THA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the THA to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

Eligibility for Admissions

Verification Procedures

Voucher Issuance and Briefings

Housing Quality Standards and Inspections

Re-certifications

Zero income appointments

Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

Medical emergency

Incarceration

Family emergency

Procedure when Appointments are Missed or Information not Provided

For most purposes in this Plan, the family will be given two (2) opportunities before being issued a notice of termination or denial for breach of a family obligation.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing:

The notice may be rescinded if the family offers to cure and the family does not have a history of non-compliance.

Missed Inspection Appointments

THA will charge for additional inspections and the request of owners and tenants to cure abatements as well as charge for any missed appointments without 24 hour notice. **(RESOLUTION 2006-3461)**.

I. PROHIBITION AGAINST TERMINATION UNDER VAWA

The Violence against Women Reauthorization Act (VAWA) of 2005, limits the owner's and PHA's right to terminate tenancy or program assistance under certain circumstances.

24 CFR 5.2005 • PHAs and owners may not consider actual or threatened domestic violence, dating violence, or stalking as a cause for terminating the tenancy, occupancy, or program assistance of a victim of such violence. Such violence or stalking cannot be construed as:

- A serious or repeated violation of the lease by the victim
- Other good cause for terminating the tenancy or occupancy rights of the victim
- Criminal activity justifying the termination of the tenancy, occupancy rights, or program assistance of the victim.

Definitions 24 CFR 5.2003

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual 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, and the length of time before the potential harm would occur.

Affiliated individual, with respect to an individual, means:

1) A spouse, parent, brother, sister, or **child** of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the **affiliated individual** is a person in the care, custody, or control of that individual); or

(2) Any individual, **tenant**, or lawful occupant living in the **household** of that individual.

Bifurcate means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

Covered housing provider refers to the individual or entity under a covered housing program, and as defined by each program in its regulations, that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

Dating violence means violence committed by a person:

- a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - 1) The length of the relationship;
 - 2) The type of relationship; and
 - 3) The frequency of interaction between the persons involved in the relationship

Domestic violence includes felony or misdemeanor crimes of violence committed by: a.

- a current or former spouse or intimate partner of the victim,
- b. by a person with whom the victim shares a child in common,
- c. by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- d. 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
- e. 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 “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) Fear for the person’s individual safety or the safety of others; or (2) Suffer substantial emotional distress.

Non-Discrimination 24 CFR 5.2001(a)

Consistent with HUD's nondiscrimination and equal opportunity requirements, victims of domestic violence, dating violence, sexual assault, and stalking cannot be discriminated against on the basis of any protected class, and HUD programs must also be operated consistent with HUD's Equal Access Rule, which requires that HUD-assisted and HUD-insured housing must be available to all otherwise eligible individuals and families without regard to actual or perceived sexual orientation, gender identity or marital status. (See 24 CFR 5.2001(a).)

Who is Eligible

VAWA protections cover tenants and assisted families, as defined under applicable program regulations. VAWA protections also cover applicants when they are applying for admission to a covered housing program.

VAWA protections are not limited to women. Victims of domestic violence, dating violence, sexual assault, or stalking are eligible for protections without regard to sex, gender identity, or sexual orientation. Victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age, and HUD programs must also be operated consistently with HUD's Equal Access Rule, which requires that HUD-assisted and HUD-insured housing are made available to all otherwise eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.

A PHA or owner may find instances of domestic violence, dating violence, sexual assault, or stalking against youth (those under the age of 18 years old) living in an assisted household for which the family may need to exercise VAWA protections to protect the youth victim. PHAs and owners should exercise the same documentation and confidentiality procedures in assisting a family in this situation.

Note: Un-emancipated minors would not be eligible to sign leases under HUD programs. Housing providers may consider contacting child welfare or child protective services, or law enforcement, when a minor claims to be a victim of domestic violence, dating violence, sexual assault, or stalking.

Who is Ineligible

Guests, unassisted members, and live-in aides of the family are ineligible for VAWA protections that are available only to tenants and participants.

As a reasonable accommodation, a tenant/participant can request VAWA protections based on the grounds that the live-in aid is a victim of domestic violence, dating violence, sexual assault or stalking. In addition, other reasonable accommodations may be needed on a case-by-case basis.

In cases where a guest or unassisted member is a victim of domestic violence, dating violence, sexual assault or stalking, a tenant/participant cannot be evicted or have assistance terminated on the basis of the domestic violence, dating violence, sexual assault or stalking of the guest or unassisted member.

Unassisted members who are also on the lease may qualify by way of the lease for VAWA protections at 24 CFR 5.2005(c).

Determining Eligibility for VAWA Protections

Determining VAWA protections, including whether an adverse factor is a “Direct Result” of domestic violence, dating violence, sexual assault, or stalking

The VAWA Final Rule provides that an applicant for assistance or a tenant/participant receiving assistance under a covered housing provider may not be denied admission to, denied assistance under, terminated from participation in, or evicted from housing on the basis or as a *direct result* of the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy. (See 24 CFR 5.2005(b)(1).)

In addition to prohibiting a denial, termination, or eviction based on the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, the VAWA Final Rule prohibits covered housing providers from denying assistance or admission, terminating participation in, or evicting a tenant based on an adverse factor, if the adverse factor is determined to be a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

For the programs covered by this Notice, an adverse factor refers to any factor that can be used as a basis for denying admission, terminating assistance, or evicting a tenant. However, if a denial or termination of assistance or eviction is required by a federal statute, based on a particular adverse factor, the PHA must comply with that statute, even if the adverse factor is a direct result of domestic violence, dating violence, sexual assault or stalking. For example, if the applicant is subject to a lifetime registration requirement under a State sex offender registration program, the PHA must comply with section 578 of the Quality Housing and Work Responsibility Act of 1998 and deny the applicant admission, even if the sex offense(s) were a direct result of the fact that the applicant was a victim of domestic violence, dating violence, sexual assault or stalking.

Examples of When Adverse Factors Might Be Direct Results of Domestic Violence, Dating Violence, Sexual Assault, Or Stalking

On the surface, adverse factors may appear unrelated to domestic violence, dating violence, sexual assault, or stalking and may present legitimate reasons for denial, termination, or eviction. However, the presence of an adverse factor may be due to an underlying experience of domestic violence, dating violence, sexual assault, or stalking. An adverse factor may be present during much of an abusive relationship, or it may present itself only when a victim is attempting to leave, or has left, the abusive relationship. The following examples are provided to give PHAs and owners a sense of the many instances in which adverse factors might be the “direct result” of domestic violence, dating violence, sexual assault, or stalking. Please note that this list is neither exhaustive nor definitive.

Poor credit history. Depending on the circumstances, poor credit history may be a direct result of domestic violence, dating violence, sexual assault, or stalking when the domestic violence, dating violence, sexual assault, or stalking results in, for example:

- Forcing a victim to obtain credit, including credit cards for the perpetrator’s use.
- Using a victim’s credit or debit card without permission, or forcing them to do so.
- Selling victims’ personally identifying information to identity thieves.

- Running up debt on joint accounts.
- Obtaining loans/mortgages in a victim's name.
- Preventing a victim from obtaining and/or maintaining employment.
- Sabotaging work or employment opportunities by stalking or harassing a victim at the workplace, or causing a victim to lose their job by physically battering the victim prior to important meetings or interviews.
- Placing utilities or other bills in a victim's name and then refusing to pay.
- Forcing a victim to work without pay in a family business, or forcing them to turn their earnings over to the abuser.
- Job loss or employment discrimination due to status as a victim of domestic violence, dating violence, sexual assault, or stalking.
- Job loss or lost wages due to missed work to attend court hearings, seek counseling or medical care, or deal with other consequences of the crime.
- Hospitalization and medical bills the victim cannot pay or cannot pay along with other bills.

Poor rental history. Depending on the circumstances, poor rental history may be a direct result of domestic violence, dating violence, sexual assault, or stalking, when the domestic violence, dating violence, sexual assault, or stalking results in, for example:

- Property damage;
- Noise complaints;
- Harassment;
- Trespassing;
- Threats;
- Criminal activity;
- Missed or late utility payments(s);
- Missed or late rental payment(s);
- Writing bad checks to the landlord; or
- Early lease termination and/or short lease terms.

Criminal record. Depending on the circumstances, a criminal record may be a direct result of domestic violence, dating violence, sexual assault, or stalking when the domestic violence, dating violence, sexual assault, or stalking results in, for example:

- Forcing a victim to write bad checks, misuse credit, or file fraudulent tax returns;
- Property damage;
- Theft;
- Disorderly conduct;
- Threats;
- Trespassing;
- Noise complaints;
- Family disturbance/trouble;
- 911 abuse;
- Public drunkenness;
- Drug activity (drug use and the selling of drugs);
- Crimes related to sex work;
- "Failure to protect" a child from a batterer's violence and/or abuse;

- Crimes committed by a victim to defend themselves or in defense of third parties from domestic violence, dating violence, sexual assault, or stalking; or
- Human trafficking.

Failure to pay rent. Depending on the circumstances, temporary failure to pay rent may be a direct result of domestic violence, dating violence, sexual assault, or stalking, when domestic violence, dating violence, sexual assault, or stalking results in, for example:

- The victim's injury or temporary incapacitation;
- The arrest of the only wage-earning member of the household;
- Preventing the victim from obtaining and/or maintaining employment;
- Sabotaging work or employment opportunities by stalking or harassing the victim at the workplace;
- Causing the victim to lose the victim's job by physically battering prior to important meetings or interviews;
- Placing utilities or other bills in the victim's name and then refusing to pay;
- Forcing the victim to turn their earnings over to the abuser;
- Forcing the victim to work without pay in a family business;
- Job loss or employment discrimination due to status as a victim of domestic violence, dating violence, sexual assault, or stalking;
- Losing wages or a job due to missing work to attend court hearings, seek counseling or medical care, or deal with other consequences of the crime can result in loss wages and unemployment; or

Inability to pay bills after significant medical expenses resulting from the victim's hospitalization.

How to Determine if an Adverse Factor is a Direct Result of Domestic Violence, Dating Violence, Sexual Assault or Stalking

To trigger the direct result analysis, it is the responsibility of the applicant or tenant to:

1. Inform the PHA or owner that they are a victim of domestic violence, dating violence, sexual assault, or stalking; and
2. Provide enough information for the PHA or owner to make a determination regarding the adverse factor they are claiming was a direct result of domestic violence, dating violence, sexual assault, or stalking.

After the PHA or owner receives this information, the PHA or owner should consider the individual's statement and any possible supporting documentation in determining if an adverse factor was a direct result of domestic violence, dating violence, sexual assault, or stalking. If further information is necessary for this determination, the PHA or owner may request additional supporting documentation from the applicant or tenant. However, any request for additional documentation must:

- a. Be in accordance with the PHA or owners' policies or practices,
- b. Not require evidence of the domestic violence, dating violence, sexual assault, or stalking other than as specified in 24 CFR 5.2007 (see Section 8 of this Notice), and
- c. Not violate the VAWA Final Rule's confidentiality requirements or any other laws.

Note: Where an applicant, tenant or participant fails to request VAWA protections, the PHA or owner is not independently required to identify whether adverse factors are the direct result of domestic violence, dating

violence, sexual assault, or stalking. PHAs and owners may seek training, where available, from a trained third-party (such as an expert victim service provider) on reviewing VAWA documentation. Any communications with a third party must be done consistent with the VAWA rule's confidentiality requirements.

If the PHA or owner believes any information is not clear, it should speak to the victim and try to clarify the information. After the PHA or owner has received the information from the tenant or applicant, and if necessary, clarified this information with the tenant or applicant, the PHA or owner must make an objectively reasonable determination, based on all the circumstances, whether the adverse factor is a direct result of the fact that the applicant or tenant/participant is a victim of domestic violence, dating violence, sexual assault, or stalking.

Notification and Other Considerations

PHAs and owners must notify the applicant or tenant if the PHA or owner finds that the denial, termination, or eviction is not on the basis or as a "direct result" of being a victim of domestic violence, dating violence, sexual assault, or stalking, and the applicant or tenant is thus denied admission to, denied assistance under, terminate from participation in, or evicted from the housing. (See 24 CFR 5.2005(b)(1).) An applicant or tenant that disagrees with the finding should use the program's appeal procedures (if applicable).

In the case of a termination or eviction, PHAs and owners must comply with the prohibition in 5.2005(d)(2), which provides:

[T]he covered housing provider must not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance.

Therefore, even if the direct result prohibition does not apply, the PHA or owner cannot use that violation to terminate or evict a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, if the covered housing provider does not ordinarily terminate or evict tenants for that violation

Victim Documentation 24 CFR 5.2007 Certification of domestic violence, dating violence, sexual assault, dating violence, or stalking

VAWA 2013 required that HUD create a certification form that serves as a means of documenting the incident or incidents of domestic violence, dating violence, sexual assault, or stalking. (See 24 CFR 5.2005(a).) The VAWA Final Rule transmitted this certification form, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation*, form HUD-5382. The PHA must include form HUD-5382 with the VAWA Notice of Occupancy Rights (form HUD-5380) described in Section 10. These forms are available at hud.gov/hudclips.

Note: Under the Mod Rehab program, the PHA may provide form HUD-5382 to owners, and charge owners with distributing it to tenants along with the VAWA Notice of Occupancy Rights as described above. (See 24 CFR 882.102.)

Form HUD-50066, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking*, previously

used for the Public Housing and HCV programs to serve as a means of documenting the incident or incidents of domestic violence, dating violence, sexual assault, or stalking is obsolete.

Form HUD-5382 is for use by all HUD-covered programs, including Public Housing and HCV programs (e.g., a PHA or owner may receive this form) and it must be publicly available and provided upon request.

The form HUD-5382:

- Provides that VAWA 2013 protects applicants, tenants, and program participants from being evicted, denied assistance, or terminated from housing assistance based on act of domestic violence, dating violence, sexual assault, or stalking.
- Is an optional way for victims to comply with a written request for documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking for persons seeking VAWA protections.
- Provides that the victim or someone on the victim's behalf may complete the form.
- Provides a list of alternative third-party documentation to satisfy a request by a PHA or owner for documentation. (See below regarding requests for documentation.)
- Explains the time period for responding to a written request for documentation.
- Describes the confidentiality protections under VAWA.
- Requires that the victim or someone filling out the form on the victim's behalf must answer 10 numbered questions and provide a brief description of the incident(s).
- Clarifies that the name of the accused perpetrator does not have to be provided if it is unknown to the victim or it cannot be provided safely.
- Clarifies that the date and time of incident should be completed only if known by the victim.

- Requires the victim or someone filling out the form on the victim's behalf to certify to the truth and accuracy of the information being provided, and explains that false information could be the basis for denial of admission, termination of assistance, or eviction.
- Includes required public reporting burden information.

When practicable, HUD encourages PHAs and owners to advise applicants, tenants, and program participants that when the PHA or owner receives a form submitted on their behalf, such submission will take the place of the applicants, tenants, or program participants submitting their own statement. Thus, applicants, tenants, or program participants should ensure, to the extent possible, that the information is accurate and comprehensive.

The form HUD-5382, as required by 24 CFR 5.2005(a)(1)(ii), must be made available by the PHA in multiple languages, consistent with HUD's LEP Guidance. (See 24 CFR 5.2005(a)(3).) In addition, consistent with civil rights requirements, when obtaining information through the form, PHAs must take appropriate steps to ensure effective communication with applicants, tenants, and participants with disabilities through the use of appropriate auxiliary aids and services, such as large print and braille documents, readers, interpreters, and accessible electronic documents. PHAs must also provide reasonable accommodations when necessary to allow applicants, tenants, and participants with disabilities to equally benefit from VAWA protections; such as providing individualized assistance in completing forms.

Certification or Documentation

The VAWA Final Rule clarified several aspects of VAWA's certification or documentation process. (See 24 CFR 5.2007.) The information below discusses some of the clarifying changes made in the VAWA Final Rule, and provides additional guidance on the processing of this documentation.

a. Acceptance of Verbal Statement

The VAWA Final Rule clarifies that PHAs and owners are not required to ask for documentation when an individual presents a claim for VAWA protections; the PHA or owner may instead choose to provide benefits to an individual based solely on the individual's verbal statement or other corroborating evidence. HUD recommends that PHAs and owners develop written policies for how and under what circumstances a verbal statement will be accepted (e.g., the PHA was aware of the abuse and encouraged the victim to request VAWA protections). It is recommended that in cases where a PHA or owner decides to rely on such information, the PHA or owner document, in a confidential manner, the individual's verbal statement or other corroborating evidence.

b. Requesting Documentation

If the PHA or owner chooses to request an individual to document their claim of domestic violence, dating violence, sexual assault, or stalking, the PHA or owner must make such request in writing. Simply providing the victim the form HUD-5382 does not constitute a written request for documentation, unless the form HUD- 5382 is accompanied by a dated letter requesting documentation. (See 24 CFR 5.2007(a)(1).)

The individual may satisfy this request by providing **any** one of the following documents as described under 24 CFR 5.2007(b)(1):

- a. Form HUD-5382; or
- b. A document:

- 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
 - 2) Signed by the applicant or tenant; and
 - 3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency (may include a police report), court, or administrative agency; or
 - d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The PHA or owner must accept any of the above items (a – c), as provided under 24 CFR 5.2007. For example, form HUD-5382 must be accepted in lieu of any of the third-party documents outlined above (b or c), if the individual chooses to self-certify to satisfy the PHA or owner’s request for documentation; and the submitted documentation does not contain conflicting information.

The PHA or owner has discretion to accept a statement or other evidence (d). PHAs are encouraged to develop written policies as to whether they will exercise discretion as provided for under (d). PHAs are encouraged to note whether a statement **or** other evidence will be accepted. If other evidence will be accepted, HUD recommends that the PHA or owner define acceptable evidence.

The PHA or owner is prohibited from requiring third-party documentation of victim status, except as outlined in Section 8.2(e) of this Notice.

Given the possible consequences to both the victim and the alleged perpetrator of domestic violence, dating violence, sexual assault, or stalking, it is important that any allegations made by one individual against another are made with the understanding that there are consequences if the allegations are false. In this regard, form HUD-5382 advises that the submission of false information may be a basis for denial of admission, termination of assistance, or eviction.

c. Time to Submit Documentation

The PHA or owner may require submission of documentation within 14 business days after the date that the individual received the written request for documentation. (See 24 CFR 5.2007(a)(2).) However, the PHA, or owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as eviction or termination, can be taken against the individual requesting VAWA protection. For example, PHAs must not schedule an eviction, grievance hearing, informal review, or informal hearing to take place during this time frame.

In determining whether to extend the 14-business day period, PHAs and owners are encouraged to consider factors that may contribute to the victim’s inability to provide the documentation in a timely manner. These factors may include, but are not limited to: cognitive limitations, disabilities, limited English proficiency, absence from the unit due to hospitalization or time in an emergency shelter, administrative delays in obtaining police or court records, the danger of further violence, and the victim’s need to address health or safety issues. PHAs and owners must also grant reasonable accommodations for persons with disabilities. Please also

note that because of these factors, the PHA or owner might not be contacted by the victim with a request to extend the 14-business day period until after the 14-day period has passed.

d. Acknowledging Receipt of Documentation; Failure to Provide Documentation in a Timely Manner

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the PHA or owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation, or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings. If the PHA denies VAWA protections, it must still follow its established procedures for grievance hearings, informal hearings, or informal reviews.

e. Requests for Third-Party Documentation of Victim Status

When an applicant or tenant requests protection under VAWA, the VAWA Final Rule allows but does not require the covered housing provider to require the applicant or tenant to submit documentation of victim status, i.e., documentation showing the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault or stalking. However, the VAWA Final Rule prohibits a covered housing provider from requiring the victim to provide third-party documentation of victim status, unless:

- More than one applicant or tenant provides documentation to show they are victims of domestic violence, dating violence, sexual assault or stalking, and the information in one person's documentation conflicts with the information in another person's documentation; or
- Submitted documentation contains information that conflicts with existing information already available to the PHA or owner.

In these circumstances, the regulations at 24 CFR 5.2007(b)(2), allow a PHA or owner to require the applicant(s) or tenant(s) to submit third-party documentation that meets the criteria in 24 CFR 5.2007(b)(1)(ii), (b)(1)(iii), or (b)(1)(iv). According to the criteria, the applicant or tenant may submit any of the following to meet the third-party documentation request:

- a. A document:
 - Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
 - Signed by the applicant or tenant; and
 - That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for

protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

- b. A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency (for example, a police report) that documents the incident of domestic violence, dating violence, sexual assault, or stalking.
- c. At the discretion of the covered housing provider, a statement or other evidence provided by the applicant or tenant.

The applicant(s) or tenant(s) must be given 30 calendar days from the date of the request to provide such documentation. If an applicant or tenant responds with third-party documentation that meets the criteria above and supports the applicant or tenant's VAWA request, the PHA or owner is prohibited from requiring further documentation of the applicant or tenant's status as a victim of domestic violence, dating violence, sexual assault, or stalking. However, if an applicant or tenant does not submit any third-party documentation within the required time period or submits documentation that does not meet the criteria above, the PHA or owner may, but is not required to, accept that applicant or tenant's assertion of victim status for the purpose of the VAWA protections.

For purposes of providing VAWA protections, satisfying the documentation requirements in section 24 CFR 5.2007(b) resolves the question of whether the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking.

Note: In the case of conflicting documentation between two tenants, if one tenant submits a court order addressing rights of access or control of the property (such as a protection order granting the victim exclusive possession of the unit), the PHA or owner must honor this court order.

When requesting third-party documentation, the PHA is encouraged to provide contact information for local domestic violence agencies so that the applicant(s) or tenant(s) can seek services and plan for their safety. The PHA may also provide the applicant(s) or tenant(s) with contact information for local legal aid offices, which may be able to assist in providing appropriate referrals, obtaining restraining orders, and preparing for grievance hearings.

If the PHA or owner requests, but does not receive third-party documentation, the PHA or owner has the option to deny VAWA protections and must notify the applicant or tenant. If this results in a tenant(s) being terminated from assistance, the PHA must hold a separate informal hearing (HCV) or grievance hearing (public housing) for the tenant. When denying VAWA protections, the PHA or owner must ensure that it complies with PIH Notice 2015-19.

Alternatively, the PHA may have a family break-up policy allowing for assistance to be provided to both persons seeking VAWA protections.

Example: A two-person household was notified by an owner that they were being evicted from their unit due to a history of neighbors having to call the police for loud disturbances coming from the tenant-household's unit in violation of the noise provision in their lease. Each member of the tenant-household provides certification to the owner that they are a victim of domestic violence, and the disturbances arose from their partner's abuse. The owner has a policy of requesting third party documentation when there are conflicting certifications. Thus, the owner requests third party documentation individually from both members of the household. Within 30 calendar days the owner receives third-party certification from only one member of the household. The owner treats the household member that submits third party documentation as a victim of domestic violence for

purposes of VAWA and notifies the other household member, who did not submit third party documentation, that the owner has denied VAWA protections for the other household member. The owner must notify the household member being terminated from assistance and hold the appropriate hearing.

Note: Perpetrators sometimes obtain temporary restraining orders or file police reports against victims as a form of retaliation. Further, many victims are unable to timely access the courts or law enforcement due to the language barriers, disabilities, cultural norms, or fear for their safety. As a result, the fact that only one party submitted third-party documentation is not always a reliable indicator of domestic violence, dating violence, sexual assault, or stalking.

f. Documentation Conflicts with PHA or Owner Information

An individual may satisfy a request for victim status documentation by submitting any document that meets the criteria for a document type under 24 CFR 5.2007(b)(1). The PHA or owner must accept the submitted documentation and is prohibited from seeking additional documentation of victim status, unless the submitted documentation does not meet the criteria in the VAWA Final Rule or the submitted documentation contains conflicting information, including conflicting claims between two parties, as described above.

PHAs and owners are prohibited from conducting further fact finding for the purpose of trying to verify the “validity” of an applicant or tenant’s victim status. For example, PHAs and owners are prohibited from conducting interviews with neighbors or employers to determine if the applicant or tenant is “really” a victim of domestic violence, dating violence, sexual assault or stalking. Doing so would be in violation of the documentation requirements of the VAWA Final Rule and may result in a violation of the victim confidentiality requirements of the VAWA Final Rule.

However, if the PHA or owner already has or regularly receives reliable information that conflicts with the submitted documentation the PHA may require third-party documentation of victim status, based on information outside of the submitted documentation. Examples of reliable information include surveillance footage, police report(s), and other verifiable information. This information must not be collected for the purpose of discrediting claims for VAWA protections, but may be collected for other legitimate reasons; such as addressing safety in the community. If the applicant or tenant subsequently does not submit third-party documentation, or only submits third-party documentation that contains conflicting information, the PHA or owner has the option to deny VAWA protections and must notify the applicant or tenant.

Given the possible consequences to both the victim and the alleged perpetrator of domestic violence, dating violence, sexual assault, or stalking, it is important that any allegations made by one individual against another are made with the understanding that there are consequences if the allegations are false. In this regard, form HUD-5382 advises that the submission of false information may be a basis for denial of admission, termination of assistance, or eviction.

Notice of Occupancy Rights

The VAWA Final Rule revises the requirements for notice of VAWA rights at 24 CFR 5.2005(a). VAWA 2013 requires that HUD create a notice of VAWA rights. The VAWA Final Rule includes a Notice of Occupancy Rights under the Violence Against Women Act; VAWA Notice of Occupancy Rights, form HUD-5380.

HUD's VAWA Notice of Occupancy Rights is available at hud.gov/hudclips. The VAWA Notice of Occupancy Rights is for use by all HUD-covered programs, including Public Housing, HCV, and PBV. However, PHAs, not owners, are the covered housing provider responsible for this activity.

PHAs must issue the VAWA Notice of Occupancy Rights without changes to the core protections and confidentiality rights in the Notice. PHAs must customize the Notice to reflect the specific assistance provided under the particular covered housing program, and to their program operations that may pertain to or affect the VAWA Notice of Occupancy Rights.

For example, PHAs must add to the VAWA Notice of Occupancy Rights information that identifies the covered program at issue (e.g., public housing), the name of the PHA (e.g., the Housing Authority of Any Town), and any additional information and terminology that is used in the program and makes the VAWA Notice of Occupancy Rights more meaningful to the applicants, and tenants/participants that receive the Notice (e.g., use of "apartment" or "housing" in lieu of "unit"). This may include additional language in places other than where the VAWA Notice of Occupancy Rights provides instructions to do so, so long as the language does not make changes to the core protections and confidentiality rights as noted above. For example, the additional language cannot add additional requirements to receive VAWA protections, but additional language may be provided to better explain VAWA.

The VAWA Notice of Occupancy Rights must be provided to:

- Adult applicants of public housing, HCV, and PBV; and
- Each adult tenant of public housing, HCV and PBV adult participant.

The VAWA Notice of Occupancy Rights must be provided no later than each of the following

times: For applicants:

- At the time the individual is provided assistance or admission²; and
- At the time the applicant is denied assistance or

admission. For tenants/participants:

- With any PHA notification of eviction or termination of assistance; and
- By December 16, 2017, either during the PHA annual recertification or lease renewal process (as applicable). If there will be no recertification or lease renewal during the first year, through other means within the first year as determined by the PHA.

The VAWA Notice of Occupancy Rights must be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency, signed August 11, 2000, and published in the Federal Register on August 16, 2000 (at 65 FR 50121) (HUD's LEP Guidance) (24 CFR 5.2005(a)(3)).

Victim Confidentiality

Given the significant safety issues faced by victims of domestic violence, dating violence, sexual assault, or stalking, it is critical that covered housing providers establish or update existing policies to maintain the confidentiality and privacy of victims who seek protections under the VAWA Final Rule.

The VAWA Final Rule clarified that any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

- a. Employees of the PHA or owner (or those who administer assistance on their behalf, (e.g., contractors) must not have access to the information unless explicitly authorized by the PHA or owner for reasons that specifically call for these individuals to have access to such information under applicable Federal, State, or local law (e.g., the information is needed by a PHA employee to provide the VAWA protections to the victim); and
- b. The PHA or owner must not enter this information into any shared database, or disclose this information to any other entity or individual (e.g. a prospective owner of participant's unit), except to the extent that disclosure is:
 - 1) Requested or consented to in writing by the individual (victim) in a time-limited release;
 - 2) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
 - 3) Otherwise required by applicable law.

The prohibition against entering this information into any shared database does not preclude a PHA or owner from entering this information into a database system used by the PHA or owner that meets all requirements for securing sensitive personally identifiable information (PII), including the Privacy Act of 1974 (5 U.S.C. § 552a), as long as the requirements listed above and provided at 24 CFR 5.2007(c) are also met (e.g. the victim consents to in in writing in a time-limited release). For additional guidance on maintaining confidentiality, see Notice PIH-2015-06, HUD Privacy Protection Guidance for Third Parties.

Communicating with the Victim

When communicating with an applicant, participant, or tenant who has requested VAWA protections, the covered housing provider must take precautions to avoid inadvertent disclosure of confidential information to another individual or entity in violation of 24 CFR 5.2007(c). Unless given permission from the victim to do so, the PHA or owner must not leave messages that contain confidential information or refer to VAWA, the VAWA protections, or the domestic violence, dating violence, sexual assault, or stalking (e.g., asking the victim to come to the PHA office to pick up the form HUD-5382) on the victim's voicemail system or with other individuals, including members of the victim's household. Leaving a voicemail requesting that the victim contact the PHA or owner without referencing VAWA, VAWA protections, or the domestic violence, dating violence, sexual assault, or stalking, is not prohibited. Best practice is for PHAs or owners not to send mail regarding the domestic violence, dating violence, sexual assault, or stalking (e.g., a written request to complete form HUD-5382, or written extension of the 14-business day timeframe to respond to the PHA's request for documentation) to the victim's address if the perpetrator may have access to the victim's mail (e.g. the perpetrator is the co-head of household, or the perpetrator is employed at the residency of the victim).

The VAWA Final Rule is silent on how a PHA or owner is to balance the confidentiality requirement at 24 CFR

5.2007(c) with the requirement at 24 CFR 5.2007(a) when requesting documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking in writing. PHAs and owners may determine the procedures for requesting documentation in writing on a case-by-case basis, or adopt general policy guidelines for how to handle these requests. For example, requiring the individual requesting VAWA protections to come to an office or other space that may be safe for the individual to receive the written request, making reasonable accommodations as necessary.

If the victim gives the PHA or owner permission to contact them about the domestic violence, dating violence, sexual assault, or stalking via mail, voicemail system, electronic mail, or other method approved by the victim, best practice would be to ensure this permission is in writing. If it is not feasible for the victim to provide the permission in writing, the PHA or owner may make a note in the victim's file about which forms of communication with the victim have been approved by the victim. The written permission or other notation must be kept confidential.

When discussing these matters directly with the victim, PHAs and owners must take reasonable precautions to ensure that no one can overhear the conversation. For example, PHA employees are encouraged to make the documentation request in a private room; not in an open space at the PHA. PHAs and owners may require that the victim come into the office to pick up the certification form and are encouraged to work with tenants to make delivery arrangements that do not place the victim at risk.

The covered housing provider must comply with all nondiscrimination and civil rights statutes and requirements in implementing their policies. This includes, for example, providing reasonable accommodations to permit individuals to follow or access any rules, policies, practices, or services, such as modifying a policy requiring that the victim come into the office to pick up the certification form to instead deliver the form to the victim. This also includes ensuring effective communication with persons with disabilities, e.g., providing sign language interpreters for persons who are deaf, accessible documents and assistance filling out forms for

persons who are blind or have low vision, and providing language assistance for persons with limited English proficiency.

PHAs and owners may suggest, but cannot require, that the victim designate an attorney, advocate, or other secure contact for communications regarding the request of VAWA protections. This may reduce the PHA's or owner's burden in ensuring confidentiality in communications with the victim.

Emergency Transfer Policies and the Housing Choice Voucher and

PBV Program HCV

The VAWA Final Rule included a requirement that the Emergency Transfer Plan must describe policies for a tenant who has tenant-based assistance and who meets the requirements for an emergency transfer. (See 24 CFR 5.2005(e)(9).) As vouchers are inherently mobile, a victim who wants to move may request an emergency transfer under Section 12.2. If the victim requests to move outside of the PHA's jurisdiction, the portability regulations apply. (See Notice PIH 2016-09.)

PHAs are strongly encouraged to consider the following policies for inclusion in their Emergency Transfer Plan for participants with tenant-based assistance:

- Expediting administrative processes for participants who wish to move with their tenant-based assistance, including when the victim and perpetrator are members of the same household.
- References to the following:
 - PHA's family break-up policy. (See 24 CFR 982.315.)
 - Where a family can move with tenant-based assistance. (See 24 CFR 982.353.)
 - Moves with continued tenant-based assistance. (See 24 CFR 982.354.)
 - Preferences in other housing programs administered by the PHA.

HUD encourages PHAs to detail in their Emergency Transfer plan not only how vouchers will be provided to HCV participants seeking emergency transfers under VAWA, but also what transfer or referral options may be available if the family needs a temporary place to stay while conducting their housing search for a new unit to lease under the HCV program.

HUD notes that many of the policies noted above are features of the HCV program already in place that may be used by participants to move from their current unit to another unit that may provide for victim safety (e.g., moving with continued assistance, and portability.)

Project-Based Voucher

Because owners receiving HAP on behalf of an HCV participant in PBV are not required to establish an Emergency Transfer Plan, it is the PHA that must have emergency transfer

policies for PBV participants.

Unlike families receiving tenant-based assistance under the HCV program, PBV families cannot move with their project-based assistance, as the assistance is tied to the unit. Nonetheless, if a victim makes an emergency transfer request and has been living in the PBV unit for one year or more, the PHA must give the victim priority to receive the next available opportunity for continued tenant-based rental assistance. (See 24 CFR 983.261.)

A family or member of the family is not required to give advanced written notice, with a copy to the PHA, of intent to vacate the PBV unit if the family moved to protect the health or safety of the victim.

PHAs must include in their Emergency Transfer Plan policies that address when:

- The victim has been living in a unit for less than one year; or
- The victim seeks to move sooner than a tenant-based voucher will be available.³

The PHA should refer the victim to other housing opportunities in the community as described in the PHA's Emergency Transfer Plan if:

- The PHA does not offer other assistance to the victim (because the victim has not lived in the PBV unit for one year);
- Tenant-based assistance is not immediately available; or
- Another safe PBV unit is not immediately available.

PHAs are strongly encouraged to consider the following policies for inclusion in their Emergency Transfer Plan for participants with project-based assistance:

- Expediting administrative processes for participants who wish to move to another available PBV unit administered by the PHA.
- Expediting administrative processes for participants wishing to move with tenant-based assistance.
- Establishing preferences in other housing programs administered by the PHA.

Remedies available to victims 24 CFR 5.2009

Notwithstanding any federal, state, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

- Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.

Right to Terminate Tenancy 24 CFR 5.2005(b)(d),(e)

The THA retains the authority to terminate program assistance of a victim under either of the following conditions:

- The termination is for a lease violation premised on something other than an act of domestic violence, dating violence, or stalking against the victim and the PHA or owner is holding the victim to a standard no more “demanding” than the standard to which other tenants are held.
- The PHA or owner/manager can demonstrate an “actual and imminent threat to other tenants or those employed at or providing service” to the property if the tenancy of the victim is not terminated.
- An eviction or termination of assistance should only occur when there are no other actions that could be taken to reduce or eliminate the actual and imminent threat.

Applicants and tenants may not be denied assistance or have assistance terminated under a covered housing program on the basis of or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Notice Requirements 24 CFR 5.2005(a)(1)

PHAs must provide notice to HCV voucher participants of their rights under VAWA, and to HCV owners/managers of their rights and obligations under VAWA.

THA provides the VAWA information at all orientations

Other Federal, State, or Local Laws 24 CFR 5.2011

VAWA does not supersede any provision of federal, state, or local law that provides greater protection to victims of domestic violence, dating violence, or stalking.

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Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 982.306, 982.453]

INTRODUCTION

It is the policy of the THA to recruit owners to participate in the Voucher program. The THA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the THA. The regulations define when the THA must disallow an owner participation in the program, and they provide the THA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)]

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The THA will disapprove the owner for the following reasons:

HUD has informed the THA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has informed the THA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.

HUD has informed the THA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.

Unless their 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 THA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

In cases where the owner and tenant bear the same last name, the THA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

The owner has engaged in drug-related criminal activity or any violent criminal activity.

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.

The owner has a history or practice of renting units that fail to meet State or local housing codes.

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

- Threatens the right to peaceful enjoyment of the premises by other residents;

- Threatens the health or safety of other residents, of employees of the THA, or of owner employees or other persons engaged in management of the housing.

- Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or

- Is drug-related criminal activity or violent criminal activity;

The owner has not paid State or local real estate taxes, fines or assessments.

The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

Owner must not be a registered life-time sexual offender.

B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the THA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The THA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the THA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

See Program Integrity Addendum for guidance as to how owner fraud will be handled.

C. CHANGE IN OWNERSHIP

A change in ownership does not require execution of a new contract and lease.

The THA may approve the assignment of the HAP contract at the old owner's written request. The THA may approve the assignment, since they are a party to the contract. The THA may deny approval of assignment of the contract, for any of the reasons listed in Section A. of this chapter.

The THA will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the Employee Identification Number or Social Security number of the new owner.

The THA must receive a written request by the old owner in order to change the HAP payee and/or the address to which payment is to be sent.

If the new owner does not want an assignment of the contract, the THA will terminate the HAP contract with the old owner, since they are 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.

Chapter 17

PROJECT-BASED VOUCHERS

RAD CONVERSION PROPERTIES

INTRODUCTION

This chapter describes HUD regulations and THA 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 THA 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 THA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the THA 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 re-determined 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]

The project-based voucher (PBV) program allows THAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. THAs may only operate a PBV program if doing so is consistent with the THA's Annual Plan, and the goal of de-concentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

THA Policy

The PBV vouchers limitation is 20 percent of its unit. Additional project-basing is allowable of vouchers by raising the limit an additional 10 percent for homeless families, families with veterans, supportive housing for persons with disabilities or elderly persons, or in areas where vouchers are difficult to use.

Prior to issuing a request for proposals (RFP) ([24 CFR 983.51\(b\)\(1\)](#)), selecting a project based on a previous competition ([24 CFR 983.51\(b\)\(2\)](#)), or selecting a project without following a competition process where the PHA has ownership interest and is engaged in improving, developing or replacing a public housing property or site the PHA must submit to the local field office all the following information (in lieu of following the requirements of [24 CFR 983.6\(d\)](#)):

(1) The total number of units authorized under the Consolidated Annual Contributions Contract (ACC) for the PHA (excluding those PBV units entirely excluded from the cap described in below). This number of authorized units includes special-purpose vouchers such as HUD-VASH (except as provided below) and Family Unification Program vouchers. The PHA must also identify the number of PBV units that are excluded from total, if applicable.

(2) The total number of units currently committed to PBV (excluding those PBV units entirely excluded from the cap described below.). The number of units "committed to PBV" is comprised of the total number of units that are either (a) currently under PBV HAP contract, (b) under an Agreement to Enter into HAP contract (AHAP), or (c) covered by a notice of proposal selection ([24 CFR 983.51\(d\)](#)). The PHA must also identify the number of PBV units that are excluded from the total, if applicable. This number must match the number of PBV units excluded from the baseline units (discussed above).

3) The number of units to which the PHA is proposing to attach project-based assistance through the new RFP or selection.

UNITS NOT SUBJECT TO PBV PROGRAM UNIT LIMITATION

New language in section 8(o)(13)(B) provides that units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD do not count toward the percentage limitation when PBV assistance is attached to them.

(1) *Exception requirements.* For purposes of this document, the unit must meet the following conditions in order to qualify for this exception:

(a) The unit must be covered under a PBV HAP contract that first became effective on or after the effective date of this notice; and

(b) In the 5 years prior to the date the PHA either (i) issued the RFP under which the project was selected or (ii) selected the project based on a prior competition or without competition, the unit met at least one of the two following conditions:

(i) The unit received one of the following forms of HUD assistance:

(I) Public Housing Capital or Operating Funds (section 9 of the 1937 Act).

(II) Project-Based Rental Assistance (section 8 of the 1937 Act). Project-based rental assistance under section 8 includes the section 8 moderate rehabilitation program, including the single-room occupancy (SRO) program.

(III) Housing For the Elderly (section 202 of the Housing Act of 1959).

(IV) Housing for Persons With Disabilities (section 811 of the Cranston-Gonzalez National Affordable Housing Act).

(V) The Rent Supplement (Rent Supp) program (section 101 of the Housing and Urban Development Act of 1965).

(VI) Rental Assistance Program (RAP) (section 236(f)(2) of the National Housing Act).

(ii) The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:

(I) Section 236.

(II) Section 221(d)(3) or (d)(4) BMIR.

(III) Housing For the Elderly (section 202 of the Housing Act of 1959).

(IV) Housing for Persons With Disabilities (section 811 of the Cranston-Gonzalez National Affordable Housing Act).

Units that were previously receiving PBV assistance or HCV tenant-based assistance are not covered by this exception. (The statute provides that the units must have been receiving “other” project-based assistance provided by the Secretary in order to cover by the exception authority.) Both existing units and units rehabilitated under the PBV program are eligible for this exception if the units meet the conditions outlined above. In addition, newly constructed units developed under the PBV program may also be excluded from the PHA program limitation, provided the newly constructed unit qualifies as a replacement unit as described below.

(2) *PBV New Construction Units that Qualify for the Exception as Replacement Housing.* For purposes of this notice, a PBV new construction unit must meet all of the following requirements in order to be a replacement unit and qualify for this exception to the program limitation:

(a) The unit which the PBV new construction unit is replacing (*i.e.*, the original unit) must have received one of the forms of HUD assistance or was subject to a rent restriction as a result of one of the HUD loan or insurance programs listed above no more than 5 years from the date the PHA either (i) issued the RFP under which the PBV new construction project was selected or (ii) selected the PBV new construction project based on a prior competition or without competition. If the PBV new construction project was selected based on a prior competition or without competition, the date of selection used to determine if the 5-year threshold has been met is the date of the PHA written notice of owner selection under [24 CFR 983.51\(d\)](#).

(b) The newly constructed unit is located on the same site as the unit it is replacing. An expansion of or modification to the prior project's site boundaries as a result of the design of new construction project is acceptable as long as a majority of the replacement units are built back on the site of the original public housing development and any units that are not built on the existing site share a common border with, are across a public right of way from, or touch that site.

(c) One of the primary purposes of the planned development of the PBV new construction project is or was to replace the affordable rental units that previously existed at the site, as evidenced by at least *one* of the following:

(i) Former residents of the original project are provided with a selection preference that provides the family with the right of first occupancy at the PBV new construction project when it is ready for occupancy.

(ii) Prior to the demolition of the original project, the PBV new construction project was specifically identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.

HUD is specifically seeking comment on what changes HUD should consider making to the initial conditions set forth under this notice in order for a PBV new construction unit to qualify as replacement housing and the exception to the PBV program limitation. Please see the questions for comment section, below.

(3) *Unit size configuration and number of units for new construction and rehabilitation projects.* The unit size configuration of the PBV new construction project may differ from the unit size configuration of the original project that the PBV units are replacing. In addition, the total number of PBV assisted units may differ from the number of units in the original project. However, under no circumstances may the program limitation exception be applied to PBV new construction units that exceed the total number of covered units in the original project that the PBV units are replacing. For example, assume the PBV new construction project will consist of a total of 50 PBV units and is replacing a former section 236 project consisting of 40 units. The maximum number of PBV units that would meet the exception from the program limitation in this example would be 40 units, and the remaining 10 PBV units in the project would count against the program limitation.

These same policies apply in the case where the owner is rehabilitating the project under the PBV program and is changing the unit configuration and/or total number of units in the project as a result of the rehabilitation.

(4) *Applicability of PBV project selection requirements.* For owner proposals involving all of these properties (existing, rehabilitation, and new construction), the standard criteria for selection of

projects and the units to which project-based assistance can be attached, including consistency with the PHA Plan, the goals of deconcentrating poverty and expanding housing and economic opportunities, site selection, and all civil rights requirements, are still in effect. Likewise, the requirements of HUD Notice PIH 2013-27 that concern the voluntary relinquishment by families of enhanced voucher assistance for PBV assistance remains in effect. The only difference is that the PBV units in these projects will not be included in determining if a PHA has exceeded its PBV program cap. These units are excluded from both the total number of units authorized under the PHA's ACC and the number of units committed to PBV in the program.

As noted above, the PHA is required to provide the number of PBV units to which it will be attaching PBV assistance under this exception authority to HUD no later than 14 calendar days prior to the date that the PHA intends to issue the RFP or make the selection. The PHA must indicate the specific exception that covers the units (*i.e.*, identify the property and the covered program or programs under which the property was formerly assisted). The PHA submits the required information electronically to the HUD field office by sending an email to pbvsubmission@hud.gov. The PHA must also copy their local HUD Office of Public Housing Director on its email submission.

OTHER UNITS NOT SUBJECT TO THE PBV PROGRAM UNIT CALCULATION

In addition to the units listed under section above, other units are not subject to the program limitation calculation and would be excluded in the total number of authorize units and the total number of PBV units currently committed to PBV that the PHA submits to the field office (in lieu of following the requirements of [24 CFR 983.6\(b\)](#)).

(1) *RAD exception.* HUD waived the 20 percent limitation at section 8(o)(13)(B) of the 1937 Act as well as [24 CFR 983.6](#) for PBV units under the RAD demonstration. This waiver remains in effect, and, consequently, a PHA that continues to be exempted from submitting information on its PBV cap calculation to HUD when it is project-basing vouchers under RAD. Furthermore, RAD PBV units are excluded from both the total number of units under the ACC and the units committed to PBV when determining if the PHA has vouchers available to project-base under the program limit requirements.

(2) *HUD-VASH PBV Set-aside vouchers.* HUD has awarded vouchers specifically designated for project-based assistance out of the HUD-VASH appropriated funding made available from the FY 2016, FY 2015, FY 2014, FY 2013, FY 2011, and FY 2010 Appropriations Acts. Since these voucher allocations were specifically allocated for project-based assistance, HUD has determined that the PBV units supported by those vouchers should not count against the PHA's PBV program unit limitation as long as those vouchers remain under PBV HAP contract at the designated project. The Appropriations Acts funding these vouchers authorize the HUD Secretary, in consultation with the VA Secretary, to waive or specify alternative requirements for any provision of any statute or regulation that the HUD Secretary administers in connection with the use of those HUD-VASH funds (except for requirements related to fair housing, labor standards, and the environment), upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective delivery and administration of such voucher assistance. Accordingly, section 8(o)(13)(B) is waived for those HUD-VASH PBV vouchers.

This exception only applies to HUD-VASH PBV vouchers that were awarded to the PHA through the HUD-VASH PBV set-aside funding process. All other HUD-VASH vouchers, including those HUD-VASH vouchers that the PHA opts to project-base, are still subject to the PHA PBV

program limitation, and would be included in the units authorized and units committed to PBV that the PHA submits to HUD under this document, which replaces the voucher funding information that was previously provided under [24 CFR 983.6\(b\)](#).

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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 THA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the THA 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 [24 CFR 983.6].

17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the THA 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.

THA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the THA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

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. THAs may not use voucher program funds to cover relocation costs, except that THAs 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 THA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The THA 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 THA must comply with the THA 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

The THA must describe the procedures for owner submission of PBV proposals and for THA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the THA 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 building [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

The THA must select PBV proposals in accordance with the selection procedures in the THA administrative plan. The THA must select PBV proposals by either of the following two methods.

- THA request for PBV Proposals. The THA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the THA request. The THA 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 THA 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 new section 8(o)(13)(N) allows PHAs to attach PBVs to projects in which the PHA has an ownership interest or has control of, without following a competitive process, in cases where the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The PHA's ownership interest does not have to meet the definition of the term "owned by a PHA" established by section 105 of HOTMA. For purposes of this section, an ownership interest means that the PHA or its officers, employees, or agents are in an entity that holds any such direct or indirect interest in the building, including, but not limited to an interest as: titleholder; lessee; a stockholder; a member, or general or limited partner; or a member of a limited liability corporation. These PBV projects are still subject to all other applicable PBV requirements.

In order to be subject to this non-competitive exception, the PHA must be planning rehabilitation or construction on the project with a minimum of \$25,000 per unit in hard costs. The PHA must detail in its PHA administrative plan what work it plans to do on the property or site and how many units of PBV it is planning on adding to the site.

RESOLUTION 2017-4053 APPROVED MAY 10TH 2017

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]

THA 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 THA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the THA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

THA Policy

THA Request for Proposals for Rehabilitated and Newly Constructed Units. The THA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

Tampa Tribune, Florida Sentinel Bulletin and LaGaceta

In addition, the THA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The THA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the THA estimates that it will be able to assist under the funding the THA is making available. Proposals will be due in the THA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the THA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The THA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

Owner experience and capability to build or rehabilitate housing as identified in the RFP;

Extent to which the project furthers the THA goal of de-concentrating poverty and expanding housing and economic opportunities;

If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for

occupancy by the elderly, persons with disabilities or families needing other services, the THA will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

THA Requests for Proposals for Existing Housing Units

THA-owned Units [24 CFR 983.51(e) and 983.59]

A THA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the THA owned units were appropriately selected based on the selection procedures specified in the THA administrative plan. If the THA selects a proposal for housing that is owned or controlled by the THA, the THA must identify the entity that will review the THA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of THA-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the THA jurisdiction (unless the THA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

Definition of THA owned unit:

- (1) Owned by a PHA.
- (2) Owned by an entity wholly controlled by the PHA.
- (3) Owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner. A “controlling interest” is—
 - (A) holding 50 percent or more of the stock of any corporation;
 - (B) having the power to appoint 50 percent or more of the members of the board of directors of a non-stock corporation (such as a non-profit corporation);
 - (C) where 50 percent or more of the members of the board of directors of any corporation also serve as directors, officers or employees of the PHA;
 - (D) holding 50 percent or more of all managing member interests in an LLC;
 - (E) holding 50 percent or more of all general partner interests in a partnership; or
 - (F) equivalent levels of control in other organizational projects

Units in which PHAs have a different ownership interest are no longer considered to be owned by the PHA.

In order to be considered a “PHA-owned” unit as described above, the PHA must have ownership interest in the building itself, not simply the land beneath the building.

RESOLUTION 2017-4053 APPROVED MAY 10TH 2017

THA Policy

The THA may submit a proposal for project-based housing that is owned or controlled by the THA. If the proposal for THA-owned housing is selected, the THA will use an outside inspection company to inspect the THA units and to certify the rent is reasonable. The THA will obtain HUD approval of an outside inspection company prior to selecting the proposal for THA-owned housing.

The THA may only compensate the independent entity and appraiser from THA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The THA may not use other program receipts to compensate the independent entity and appraiser for their services. The THA, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

THA Notice of Owner Selection [24 CFR 983.51(d)]

The THA 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.

Waiver of 24 CFR § 983.51 for RAD Conversion Sites

The requirements of 24 CFR § 983.51 are waived for PBV sites that were converted under RAD

THA Policy

Within 10 business days of the THA making the selection, the THA will notify the selected owner in writing of the owner's selection for the PBV program. The THA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the THA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the THA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The THA will also post the notice of owner selection on its electronic web site.

The THA will make available to any interested party its rating and ranking sheets and documents that identify the THA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The THA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The THA will make these documents available for review at the THA during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

17-II.C. HOUSING TYPE [24 CFR 983.52]

The THA 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 THA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The THA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The THA choice of housing type and targeted population must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The THA 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; cooperative housing; and transitional housing. In addition, the THA may not attach or pay PBV assistance for a unit occupied by an owner and the

THA 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.

High-rise Elevator Projects for Families with Children [24 CFR 983.53(b)]

The THA may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves the THA determination. The THA may make this initial determination for its project-based voucher program, in whole or in part, and need not review each project on a case-by-case basis, and HUD may approve on the same basis.

THA Policy

The THA will use high-rise elevator projects for families with children in its efforts to expand affordable housing choices. The agency will seek HUD approval.

Subsidized Housing [24 CFR 983.54]

A THA 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 THA 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 THA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

The THA 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.

The THA must submit the necessary documentation to HUD for a subsidy layering review. The THA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH BUILDING

25 Percent per Building Cap [24 CFR 983.56(a)]

The income-mixing cap on the number of PBV units in a project to be the greater of 25 units in a project or 25 percent of the units in a project (the project unit cap)

EXCEPTIONS TO PROJECT CAP[24 CFR 983.56(b)]

Units that are in one of the following categories are excluded from the 25 percent or 25-unit project cap on PBV assistance:

- (1) Units exclusively serving elderly families (as such term is defined in [24 CFR 5.403](#)).
- (2) Units housing households eligible for supportive services available to all families receiving PBV assistance in the project. The project must make supportive services available to all assisted families in the project (but the family does not have to actually accept and receive the supportive service for the exception to apply to the unit). Families eligible for supportive services under this exception to the project cap would include families with a household member with a disability, among other populations. Such supportive services need not be provided by the owner or on-site, but must be reasonably available to the families receiving PBV assistance in the project and designed to help the families in the project achieve self-sufficiency or live in the community as independently as possible. PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify under the exception and the extent to which such services will be provided.

A PHA may not require participation in the supportive services as a condition of living in an excepted unit, although such services may be offered. In cases where the unit is excepted because of FSS supportive services or any other supportive services as defined in the PHA administrative plan, if a family at the time of initial tenancy was eligible for FSS supportive services and successfully completes its FSS contract of participation or the supportive services objective, the unit continues to count as an excepted unit for as long as the family resides in the unit even though the family is no longer eligible for the service.

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 housing assistance payments on behalf of the ineligible family. If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract (unless it is possible to substitute a different unit for the formerly excepted unit in the project in accordance with 983.207(a)).

- (3) Projects that are in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey 5-Year Estimates. The PHA may only refer qualifying families for occupancy of excepted units under (1) and (2) above.

GRANDFATHERING OF CERTAIN PROPERTIES

The HOTMA amendments entirely eliminate the statutory exemption from a project cap for projects that serve disabled families and modify the supportive services exception. Previously, the statutory exception required that the family must be actually receiving the supportive services for the individual unit to be exempted from the income-mixing requirement. The new requirement provides that the project must make supportive services available to all assisted families in the project (but that the family does not have to actually accept and receive the supportive services for the exception to apply to the unit). However, projects that are using the former statutory

exemptions will continue to operate under the pre-HOTMA requirements and will continue to renew their HAP contracts under the old requirements, unless the PHA and the owner agree by mutual consent to change the conditions to the HOTMA requirement. The PBV HAP contract may not be changed to the HOTMA requirement if the change would jeopardize an assisted family's eligibility for continued assistance at the project (*e.g.*, excepted units at the project included units designated for the disabled, and changing to the HOTMA standard would result in those units no longer being eligible as an excepted unit unless the owner will make supportive services available to all assisted families in the unit.)

Exceptions to 50 Percent per Building Cap (PIH Notice 2012- 32)

The per building cap is 50 percent if the property was converted to PBV as through RAD. Exceptions are allowed and PBV units are not counted against the 50 percent per building cap if:

- The units are in a single-family building (one to four units);
The units are *excepted units* in a multifamily building because they are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).

THAs must include in the THA 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. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A THA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the THA administrative plan, 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.

The THA must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The THA administrative plan must state the form and frequency of such monitoring.

THA Policy

The THA will provide PBV assistance for excepted units. Supportive services may include but are not limited to after school care, computer training, budgeting, parenting, employment preparation, and self-esteem building. Monitoring of supportive services will be completed on an annual basis.

Families residing in RAD units prior to the conversion date must be given the option to receive supportive services. If the services are declined, the unit shall remain under HAP contract. Refusal

to receive supportive services by a RAD Conversion Family shall not be grounds for lease termination. Once the RAD Conversion Family vacates the unit, the requirement for the actual receipt of supportive services applies. The family that fills the vacated unit must receive supportive services for the unit to qualify as an excepted unit beyond the 50 percent cap.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

A THA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A THA may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. A THA may also determine not to provide PBV assistance for excepted units, or the THA may establish a per-building cap of less than 25 percent.

THA Policy:

Since the THA will provide assistance for excepted units, the THA will impose a further cap on the number of PBV units assisted per building that have not been designated as Senior Only. The cap will be 50 percent of the building not designated as Senior Only may contain excepted units.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The THA 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 THA has determined that PBV assistance for housing at the selected site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities. The standard for de-concentrating poverty and expanding housing and economic opportunities must be consistent with the THA Plan under 24 CFR 903 and the THA administrative plan.

In addition, prior to selecting a proposal, the THA 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).

THA Policy

It is the THA goal to select sites for PBV housing that provide for de-concentrating poverty and expanding housing and economic opportunities. In complying with this goal the THA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the THA will grant exceptions to the 20 percent standard where the THA determines that the PBV assistance will complement other local redevelopment activities designed to de-concentrate 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 THA 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 THA 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.

The requirement to determine that a proposal for a PBV site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities is waived for any site that is converted to by RAD

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The THA 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 THA 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 THA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the THA, 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 THA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The THA 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 III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program. The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The THA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The THA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the THA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the THA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The THA must inspect each contract unit before execution of the HAP contract. The THA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

All units under a RAD PBV Conversion must meet HQS no later than the date of completion of initial repairs as indicated in the RAD Conversion Commitment. The requirement that the units pass HQS inspection prior to entering the HAP contract is waived for RAD PBV conversions.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the THA must inspect the unit. The THA may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP contract, the THA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the THA must re-inspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The THA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The THA must take into account complaints and any other information coming to its attention in scheduling inspections.

The THA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting THA supervisory quality control HQS inspections, the THA should include a representative sample of both tenant-based and project-based units.

Inspecting THA-owned Units [24 CFR 983.103(f)]

In the case of THA-owned units, the inspections must be performed by an independent agency designated by the THA and approved by HUD. The independent entity must furnish a copy of each inspection report to the THA and to the HUD field office where the project is located. The THA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the THA-owner.

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 THA 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(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the THA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the THA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement [24 CFR 983.152(c)]

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
- 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 THA, 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 THA notice of proposal selection to the selected owner. However, the THA may not enter into the Agreement with the owner until the subsidy

layering review is completed. Likewise, the THA may not enter into the Agreement until the environmental review is completed and the THA has received environmental approval.

THA Policy

The THA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

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 THA 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 THA in the form and manner required by the THA:

- 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 THA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

THA Policy

The THA 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 THA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

THA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the THA 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 THA 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 THA must not enter into the HAP contract.

If the THA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the THA 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 THA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

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 county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;

- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The THA may not enter into a HAP contract until each contract unit has been inspected and the THA has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the THA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the THA 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.

THA Policy

For existing housing, the HAP contract will be executed within 30 business days of the THA determining that all units pass HQS. For rehabilitated or newly constructed housing, the HAP contract will be executed within 30 business days of the THA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205]

The initial HAP Contract term may now be of a period of up to 20 years (instead of the prior 15-year limitation). The length of the term of the initial HAP contract for any HAP contract unit may not be less than one year nor more than 20 years (instead of the prior 15-year limitation on the initial term of the HAP contract). In addition, the PHA may agree to enter into an extension (at the time of the initial HAP contract execution or any time before the expiration of the contract, for an additional term of up to 20 years (as opposed to the prior 15-year limitation on the term of the contract extension). A HAP contract extension may not exceed 20 years. The PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively.

PHAs and owners with HAP contracts that are still in the initial term may extend the initial term up to a maximum initial term of 20 years by mutual consent, and then may subsequently agree to extend the contract for up to 20 years. The maximum term of the HAP contract in that instance (initial term and subsequent extension) would be 40 years. PHAs and owners with HAP contracts that are no longer in the initial term may mutually agree to extend the HAP contract for a total extension term of 20 years. The maximum term of the HAP contract in that case would be 20 years plus the number of years that constituted the initial term of the HAP contract.

RESOLUTION 2017-4053 APPROVED MAY 10TH 2017

Term of HAP Contract for PBV converted under RAD

The Administrative Plan currently provides that the THA may enter into a HAP contract for an initial term of no less than one year and no more than ten years. The terms length requirements and renewal periods change under RAD. CVR recommends amending the plan at the end of the Section **Term of HAP Contract [24 CFR 983.205], Chapter 17** with the following language:

RAD PBV Contract Term and Renewal Period (PIH Notice 2012- 32)

A PBV site that resulted from a RAD conversion shall have an initial HAP contract term of at least 15 years. The initial term may be extended to 20 years upon request of the Property Owner and THA approval.

Renewal of the initial HAP contract is mandatory upon expiration subject to the terms and conditions of the contract and the availability of appropriations at the time of renewal.

THA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

Within one year before expiration of the HAP contract, the THA may extend the term of the contract for an additional term of up to five years if the THA determines an extension is appropriate to continue providing affordable housing for low-income families. 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.

THA Policy

When determining whether or not to extend an expiring PBV contract, the THA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

Termination by THA [24 CFR 983.205(c)]

The HAP contract must provide that the term of the THA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the THA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the THA 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 THA. In this case, families living in the contract units must be offered tenant-based assistance.

RAD Tenancy Notice Requirements

Pursuant to requirements in the RAD Statute, HUD has established additional procedural rights. For issues related to tenancy and termination of assistance, PBV program rules require the *Property Owner* to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555.

In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi), an opportunity for an informal hearing must be given to RAD Conversion PBV residents for any dispute that a resident may have with respect to a Property Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).

For any additional hearings required under RAD, the Property Owner will perform the hearing. The hearing rights for tenants of a RAD conversion property are detailed in the THA PBV Management Plan.

There is no right to an informal hearing for class grievances or to disputes between residents not involving the Property Owner or contract administrator.

The Property Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi). The Property Owner provides an opportunity for an informal hearing before an eviction.

Remedies for HQS Violations [24 CFR 983.207(b)]

The THA 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 THA determines that a contract does not comply with HQS, the THA 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.

THA Policy

The THA 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]

At the THA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the THA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units 24 CFR 983.207

The new language in section 8(o)(13)(F)(ii) allows PHAs and owners to 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 (see [24 CFR 983.51\(b\)](#)) for those added PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and the individual project caps, found in sections 8(o)(13)(B) and (D) of the 1937 Act, respectively. Furthermore, prior to attaching additional units without competition, the PHA must submit to the local field office the information described in section **17-I.A.**, which pertains to demonstrating the PHA is able to project-base additional units without exceeding the PHA program limitation on PBV units. PHAs must also detail their intent to add PBV units in this manner in their administrative plan, along with their rationale for adding PBVs to this specific project. This provision overrides the restriction in [24 CFR 983.207\(b\)](#) that additional units may only be added to the HAP contract during the three-year period immediately following execution of the HAP contract. All of the other requirements under § 983.207(b) continue to apply.

THA Policy

The THA will consider adding contract units to the HAP contract when the THA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.

Removal of Units from HAP Contract

Units occupied by families whose income has increased during their tenancy resulting in the tenant rent equaling the rent to the owner, shall be removed from the HAP Contract 180 days following the last housing assistance payment on behalf of the family. If the property is fully assisted, a THA may reinstate the unit removed after the ineligible family vacates the property.

If the property is partially assisted, the THA may substitute a different unit for the unit removed under paragraph when the first eligible substitute becomes available. A reinstatement or substitution of units under the HAP contract, must be permissible under § 983.207. The anniversary and expirations dates of the HAP contract for the unit must be the same as it was when it was originally placed under the HAP contract. The THA must refer eligible families to the owner in accordance with the PHA's selection policies.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24

CFR 983.207 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 983.209]

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 THA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(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 THA 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 THA 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.

THA Policy

The THA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The THA 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 THA, the HAP contract may provide for vacancy payments to the owner for a THA-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 THA 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).

THA Policy

The THA will decide on a case-by-case basis if the THA 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 THA may select families for the PBV program from those who are participants in the THA'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 re-determined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher. THA, have income at or below HUD-

specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the THA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

For PBV RAD Conversion Families, eligibility was determined at original admission to the voucher program and does not need to be re-determined at the commencement of PBV assistance

THA Policy

The THA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

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 THA 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 THA's waiting list. Once the family's continued eligibility is determined (the THA 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 THA 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-VLC. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The THA 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 THA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the THA. If the THA chooses to offer a separate waiting list for PBV assistance, the THA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance. If a THA decides to establish a separate PBV waiting list, the THA may use a single waiting list for the THA'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.

THA Policy

The THA will establish and manage one waiting list for individual projects or buildings that are receiving PBV and tenant based assistance.

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 THA's waiting list. The THA may establish selection criteria or preferences for occupancy of particular PBV units. The THA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the THA's tenant-based and project-based voucher programs during the THA 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 THA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

The THA 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 THA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although the THA is prohibited from granting preferences to persons with a specific disability, the THA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

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 THA has buildings with more than 25 percent of the units receiving project-based assistance because those buildings include “excepted units” (units specifically made available for elderly or families receiving supportive services), the THA must give preference to such families when referring families to these units [24 CFR 983.262(b)].

THA Policy

The THA will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units). The THA will also offer the additional preferences set forth in our policy, for the PBV program or for particular PBV projects or units.

Exhaustion of Public Housing Waiting Lists

The THA must exhaust the site-based waiting lists established for all public housing sites that are converted to PBV through RAD.

Any existing applicant on a waiting list for a public housing site that is converted to PBV through RAD, shall receive priority over any applicant added to the site based PBV list that is created post RAD conversion. Each site shall have a separate site-based Waiting List. Each list shall be opened on a case-by-case basis and shall not be opened until such time as the existing one has been exhausted. Each list will use the preferences of the HCV program.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The THA 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 THA’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

If the family refuses a project based unit for any reason, the family will be removed from the project based list for that specific site only.

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 THA 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 THA must provide a briefing packet that explains how the THA 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 THA 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 THA 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 THA 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-VLF. 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(b)].

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 THA from the THA'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 THA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the THA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the THA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The THA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

THA Policy

The owner must notify the THA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy. The THA will make every reasonable effort to refer families to the owner within 30 business days of receiving such notice from the owner.

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 THA 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.

THA Policy

If any contract units have been vacant for 120 days, the THA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The THA will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the THA's notice.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

THA Responsibility

The THA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the THA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

THA Policy

The THA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The THA must provide the owner with an applicant family's current and prior address (as shown in THA records) and the name and address (if known by the THA) of the family's current landlord and any prior landlords.

In addition, the THA may offer the owner other information the THA 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 THA must provide applicant families a description of the THA policy on providing information to owners, and the THA must give the same types of information to all owners.

THA Policy

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

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit.

When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their 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 THA, 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 THA model lease.

The THA may review the owner's lease form to determine if the lease complies with state and local law. If the THA determines that the lease does not comply with state or local law, the THA may decline to approve the tenancy.

THA Policy

The THA will not review the owner's lease for compliance with state or local law. The THA will advise that the owner seek legal advice for this purpose.

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 provided 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 THA (the names of family members and any THA-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) and

The lease will automatically renew unless the owner terminates for cause or the owner and the tenant mutually agree to terminate the lease

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 THA a copy of all changes. The owner must notify the THA 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 THA and in accordance with the terms of the lease relating to its amendment.

The THA must re-determine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The re-determined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

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.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c)]

If a family is living in a project-based unit that is excepted from the 25 percent per building 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.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by THA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

Security Deposits 24 CFR 983.259

The owner may collect a security deposit from the tenant. The THA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

THA Policy

The THA will allow the owner to collect a security deposit amount the owner determines is appropriate, but not to exceed one month rent.

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 THA 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 THA determines that a family is occupying a wrong size unit, based on the THA'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 THA must promptly notify the family and the owner of this determination, and the THA must offer the family the opportunity to receive continued housing assistance in another unit.

THA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the THA's determination. The THA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project; PBV assistance in another project; and Tenant-based voucher assistance.

If the THA offers the family a tenant-based voucher, the THA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the THA).

If the THA 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 THA, or both, the THA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the THA.

When the THA 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 THA will terminate the housing assistance payments at the expiration of this 30-day period.

The THA 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.

If a family is in an under-occupied unit at the time of conversion to PBV under RAD, the family may remain in this unit until an appropriate-sized unit becomes available in the Covered Property. When an appropriate-sized unit becomes available in the Covered Property, the family living in the under-occupied unit must move to the appropriate-sized unit within 30 days. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Property, 24 CFR § 983.260 is waived.

Family Right to Move [24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the THA. If the family wishes to move with continued tenant-based assistance, the family must contact the THA 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 THA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the THA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

Where the total number of PBV units under HAP contract administered by the THA exceeds 20 percent of the THA's authorized units under its HCV ACC, THA will not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Properties. The THA will maintain a waiting list to order PBV resident requests to receive tenant-based vouchers.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

The THA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or

- Specifically made available for families receiving supportive services as defined by the THA.

At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by the THA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the 25 percent per building cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the THA, and the THA 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 THA.

THA Policy

The THA will provide PBV assistance for excepted units. Therefore, THA will allow for unit replacements if required.

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 re-determined at the owner’s request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

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 THA, 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.

These 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 building, 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 a THA-determined amount (not to exceed 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 building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the THA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, the THA must use the most recently published FMR and the utility allowance schedule in effect at the time of re-determination. At its discretion, the THA 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 re-determinations of rent, the 30-day period immediately before the re-determination 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 THA 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.

THA Policy

Upon written request by the owner, the THA 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 THA 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 THA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or re-determination of rent, if the THA determines it is necessary due to THA budgetary constraints.

Under the PBV program rents are limited by the lower of: 110 percent of the FMR minus the Utility Allowance, the reasonable rent, or the rent requested by the owner.

17-VIII.B. RENT LIMITS [24 CFR 983.301]:

The initial contract rent for a PBV property converted under RAD will be determined in accordance with PIH Notice 2012-32. Contract rents shall be set based on FY 2012 funding levels and subsequent Operating Cost Adjustment Factor (OCAF). Under no circumstances may the rent exceed the lower of: (a) the reasonable rent, (b) an amount determined by the THA not to exceed 110 percent of the applicable FMR (or applicable exception payment standard) minus the utility allowance, or (c) the rent requested by the owner.

Re-determination of Rent [24 CFR 983.302]

The THA must re-determine the rent to owner upon the owner's request or when there is a five 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 THA, 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 THA. The THA 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).

THA Policy

An owner's request for a rent increase must be submitted to the THA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The THA 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 Increase for RAD PBV Conversion Sites

Contract rents will be adjusted only by HUD's OCAF at each anniversary of the contract term upon request from the owner. The rent to owner, at no time, shall not exceed the reasonable rent charged for comparable unassisted units in the private market. Despite the rent reasonable requirement, the rent to owner shall not be reduced below the initial rent to owner for units as determined under the initial HAP contract.

**TENANT RENT TO OWNER [24 CFR 983.353]:
RAD PBV Conversion Rent Phase-In**

If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 years.

The phase-in shall be implemented as follows:

Year 1 Phase-in: For any recertification (interim or annual) performed prior to the second regular annual recertification after conversion, the TTP shall be equal to the TTP paid prior to conversion or flat rent plus 33% of difference between the TTP paid prior to conversion or flat rent and the standard TTP.

Year 2 Phase-in: For the second annual recertification or any interim recertification prior to the third regular reexamination, the TTP shall be equal to the TTP paid prior to conversion or flat rent plus 66% of difference between the TTP paid prior to conversion or flat rent and the standard TTP.

Year 3: For the 3rd regular recertification following the conversion, the full standard TTP shall be used.

Regardless of the phase-in, once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

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.

Notice of Rent Change

The rent to owner is re-determined by written notice by the THA to the owner specifying the amount of the re-determined rent. The THA 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.

THA Policy

The THA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

THA-owned Units [24 CFR 983.301(g)]

For THA-owned PBV units, the initial rent to owner and the annual re-determination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The THA must use the rent to owner established by the independent entity.

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 THA.

When Rent Reasonable Determinations are Required

The THA must re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The THA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

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 THA 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 as a unit to unit comparison or a unit to market comparison. 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 THA. The comparability analysis may be performed by THA 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.

THA-owned Units

For THA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent

entity must provide a copy of the determination of reasonable rent for THA-owned units to the THA and to the HUD field office where the project is located.

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 THA 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]

At its discretion, a THA may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- A project receiving low-income housing tax credits;
- Any other type of federally subsidized project specified by HUD.

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 THA 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 THA agree on a later date.

Except for discretionary vacancy payments, the THA 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 THA 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 THA determines that the vacancy is the owner's fault.

THA Policy

If the THA determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the THA will notify the landlord of the amount of housing assistance payment that the owner must repay. The THA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the THA, the HAP contract may provide for vacancy payments to the owner.

The THA may only make vacancy payments if:

- The owner gives the THA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant

during the period for which payment is claimed;

- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the THA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the THA and must provide any information or substantiation required by the THA to determine the amount of any vacancy payment.

THA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the THA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies. In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the THA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the THA within 10 business days of the THA's request, no vacancy payments will be made.

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 THA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the THA 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 THA 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 THA. The owner must immediately return any excess payment to the tenant.

Tenant and THA 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 THA.

Likewise, the THA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The THA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The THA 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 THA 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 THA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the THA chooses to pay the utility supplier directly, the THA must notify the family of the amount paid to the utility supplier.

THA Policy

The THA may make utility reimbursements to the utility supplier.

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.

Chapter 18

OWNER OR FAMILY DEBTS TO THE PHA

[24 CFR 982.552]

INTRODUCTION

This Chapter describes the THA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the THA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the THA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the THA, the THA will make every effort to collect it. The THA will use a variety of collection tools to recover debts including, but not limited to:

Requests for lump sum payments

Civil suits

Payment agreements

Abatements

Reductions in HAP to owner

Collection agencies

Credit bureaus

Income tax set-off programs

A. PAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (b)(6-8)]

A Payment Agreement as used in this Plan is a document entered into between the THA and a person who owes a debt to the THA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the THA upon default of the agreement.

The THA will prescribe the terms of the payment agreement, including determining whether to enter into a payment agreement with the family based on the circumstances surrounding the debt to the THA.

A family's failure to report income timely may result in a repayment agreement as long as is not a current repayment agreement and the family did not misrepresent the income or household

information on a THA application. Families who misrepresent information on an application related to household composition or income will be processed for termination.

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There are some circumstances in which the THA will not enter into a payment agreement. They are:

If the family already has a Payment Agreement in place.

If the THA determines that the family committed program fraud.

If the THA determines that the debt amount is larger than can be paid back by the family in a reasonable amount of time with one year within 12 months.

The maximum length of time the THA will enter into a payment agreement with a family is 12 months.

The minimum monthly amount of monthly payment for any payment agreement is \$25.00.

The THA will use a sliding scale system to determine the monthly payment.

Payment Schedule for Monies Owed to the THA

The Director of Assisted Housing or the designee has discretion to allow for flexibility in the payment schedule.

B. DEBTS OWED FOR CLAIMS [24 CFR 792.103, 982.552 (b)(6-8)]

If a family owes money to the THA for claims paid to an owner:

The THA may require the family to pay the amount in full.

The THA will review the circumstances resulting in the overpayment and decide whether the family must pay the full amount.

The THA may enter into a Payment Agreement.

Late Payments

A payment will be considered to be in arrears if:

The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

The payment is not received by the close of the business day ten (10) days after the due date.

If the family's payment agreement is in arrears, and the family has not contacted or made arrangements with the THA, the THA will:

Require the family to pay the balance in full

Pursue civil collection of the balance due

Terminate the housing assistance

Grant an extension of thirty (30) days

If the family requests a move to another unit and has a payment agreement in place for the payment of an owner claim, and the payment agreement is not in arrears:

The family will be required to pay the balance in full prior to the issuance of a voucher.

If the family requests a move to another unit and is in arrears on a payment agreement for the payment of an owner claim:

The family will be required to pay the balance in full, or be terminated from the program.

If the family pays the past due amount, they will be permitted to move.

C. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

Family Error/Late Reporting

Families who owe money to the THA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Payment Agreement Section of this Chapter.

Families who owe money to the THA due to the family's failure to report increases in income will be required to repay in accordance with the payment procedures for program fraud, below.

Families who owe money to the THA due to the family's failure to report increases in income will be required to pay in a lump sum within ten (10) days. If the family pays the amount in full within this time period, the THA may continue assistance to the family.

Program Fraud

Families who owe money to the THA due to program fraud will be required to repay in accordance with the guidelines in the Payment Agreement Section of this Chapter.

Families who owe money to the THA due to program fraud may be required to pay in accordance with the payment procedures for program fraud, below.

Families who owe money to the THA due to program fraud may be required to pay the amount in full within thirty (30) days. If the full amount is paid within this time period, and the family is still eligible, the THA may continue assistance to the family.

If a family owes an amount which equals or exceeds \$5000.00 dollars as a result of program fraud, the case will be referred to the Inspector General. Where appropriate, the THA will refer the case for criminal prosecution.

Payment Procedures for Program Fraud

Families who commit program fraud or untimely reporting of increases in income will be subject to the following procedures:

The maximum time period for a Payment Agreement will be twelve (12) months, with discretion allowed by the Director of Assisted Housing or their designee.

The family will be required to pre-pay the amounts exceeding \$300.00, for overpayments and \$500.00 for claims, upon execution of the Payment Agreement.

The minimum monthly payment will be \$25.00.

D. DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP

If the family owes the THA money for rent arrears incurred during the minimum rent period, the THA will calculate the total amount owed and divide it by twelve (12) to arrive at a reasonable payback amount that the family will be required to pay to the THA monthly in addition to the family's regular monthly rent payment to the owner. The family will be required to pay the increased amount until the arrears are paid in full to the THA.

Minimum rent arrears that are less than \$120.00 dollars will be required to be paid in full the first month following the end of the minimum rent period.

The minimum monthly amount for a repayment agreement incurred for minimum rent arrears is \$10.00.

The THA will not enter into a repayment agreement that will take more than twelve (12) months to pay off.

If the family goes into default on the repayment agreement for back rent incurred during a minimum rent period, the THA will reevaluate the family's financial situation and determine whether the family has the ability to pay the increased rent amount and if not, restructure the existing repayment agreement.

E. GUIDELINES FOR PAYMENT AGREEMENTS [24 CFR 982.552(b)(8)]

Payment Agreements will be executed between the THA and the head of household.

The Repayment Agreement must be executed by the Director of Assisted Housing or his/her designee, including counselors.

Payments may only be made by money order or cashier's check.

The agreement will be in default when a payment is delinquent by the 25th of the month.

The family's assistance will be terminated unless the THA receives the balance of the Repayment Agreement in full within thirty (30) days of the termination notice.

A Payment Agreement will be considered to be in default when it is in arrears for one month.

No move will be approved until the debt is paid in full unless the move is the result of the following causes, and the Payment Agreement is current:

Family size exceeds the HQS maximum occupancy standards

The HAP contract is terminated due to owner non-compliance or opt-out

A natural disaster

Additional Monies Owed: If the family already has a Payment Agreement in place and incurs an additional debt to the THA:

The THA will not enter into more than one Payment Agreement with the family.

Additional amounts owed by the family will be added to the existing payment agreement.

If a Payment Agreement is in arrears more than thirty (30) calendar days, any new debts must be paid in full.

**Exception to these guidelines can only be made by the Director of Assisted Housing or his/her designee.

F OWNER DEBTS TO THE THA [24 CFR 982.453(b)]

If the THA determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the THA may reclaim the amounts from future Housing Assistance or Claim Payments owed the owner for any units under contract.

If future Housing Assistance or Claim Payments are insufficient to reclaim the amounts owed, the THA will:

Require the owner to pay the amount in full within thirty (30) calendar days.

G. WRITING OFF DEBTS

Debts will be written off if:

Attempts have failed through collection agencies.

The debtor's whereabouts are unknown and the debt is more than 1 year old.

The debtor is deceased or incarcerated and debt is more than 1 year old.

The cost to collect would exceed recovery amount.

Although the debt is removed from the ledger, it will still be a permanent record and collectible.

RESOLUTION 2011-3719 passed February 11 2011

Chapter 19

COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the PHA. This Chapter describes the policies, procedures and standards to be used when families disagree with a PHA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the PHA to ensure that all families have the benefit of all protections due to them under the law.

A. COMPLAINTS TO THE THA

The THA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The THA **may** require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

The THA hearing procedures will be provided to families in the briefing packet.

Categories of Complaints

Complaints from families: If a family disagrees with an action or inaction of the THA or owner.

Complaints from families will be referred to the Assistant Director. If a complaint is not resolved, it will be referred to the Director of Assisted Housing.

Complaints from owners: If an owner disagrees with an action or inaction of the THA or a family.

Complaints from owners will be referred to the Assistant Director. If a complaint is not resolved, it will be referred to the Director of Assisted Housing.

Complaints from staff: If a staff person observes an owner or family either violating or not complying with program rules, the complaint will be referred to the appropriate counselor.

Complaints from the general public: Complaints or referrals from persons in the community in regard to the THA, a family or an owner.

Complaints from the general public will be referred to the Section 8 Counselor. If a complaint is not resolved, it will be referred to the Housing Manager.

B. PREFERENCE DENIALS [24 CFR 5.415]

When the THA 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 THA staff to discuss the reasons for the denial and to dispute the THA's decision.

The person who conducts the meeting will be:

The Section 8 Supervisor or their designee.

C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(d)(12), 982.554]

Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the THA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

The reason(s) they are ineligible,

The procedure for requesting a review if the applicant does not agree with the decision and

The time limit for requesting a review.

The THA must provide applicants with the opportunity for an Informal Review of decisions denying:

Qualification for preference

Listing on the THA's waiting list

Issuance of a Voucher

Participation in the program

Informal Reviews are not required for established policies and procedures and THA determinations such as:

Discretionary administrative determinations by the THA

General policy issues or class grievances

A determination of the family unit size under the PHA subsidy standards

Refusal to extend or suspend a Voucher

A THA determination not to grant approval of the tenancy

Determination that unit is not in compliance with HQS

Determination that unit is not in accordance with HQS due to family size or composition

Procedure for Review

A request for an Informal Review must be received in writing by the close of the business day, no later than **ten (10)** days from the date of the THA's notification of denial of assistance. The informal review will be scheduled within ten (10) days from the date the request is received.

The Informal Review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person.

The Review may be conducted by:

A staff person who is at the Supervisor level or above

The applicant will be given the option of presenting oral or written objections to the decision. Both the PHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A Notice of the Review findings will be provided in writing to the applicant within **ten (10) days** after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

Payments will continue until decision has been rendered and notice has been provided to owner and tenant. If the hearing is held within the termination month, payment will cease for that month; however, if the notice is sent after the termination month, payment will be released for the month notice was issued.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

D. INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(d)(13)]

When the THA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The THA will give the family prompt notice of such determinations which will include:

The proposed action or decision of the THA;

The date the proposed action or decision will take place;

The family's right to an explanation of the basis for the THA's decision.

The procedures for requesting a hearing if the family disputes the action or decision;

The time limit for requesting the hearing.

When terminating assistance for criminal activity as shown by a criminal record, the THA will provide the subject of the record and the tenant/participant with a copy of the criminal record upon which the decision to terminate is based.

To whom the hearing request should be addressed

The THA must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following THA determinations:

Determination of the family's annual or adjusted income and the computation of the housing assistance payment

Appropriate utility allowance used from schedule

Family unit size determination under THA subsidy standards

Determination that pre-merger Certificate program family is under-occupied in their current unit and a request for exception is denied

Determination to terminate assistance for any reason.

Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account.

The THA must always provide the opportunity for an informal hearing before termination of assistance.

Informal Hearings are not required for established policies and procedures and THA determinations such as:

Discretionary administrative determinations by the THA

General policy issues or class grievances

Establishment of the THA schedule of utility allowances for families in the program

A THA determination not to approve an extension or suspension of a voucher term

A THA determination not to approve a unit or lease

A THA determination that an assisted unit is not in compliance with HQS (THA must provide hearing for family breach of HQS because that is a family obligation determination)

A THA determination that the unit is not in accordance with HQS because of the family size

A THA determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

Notification of Hearing

It is the THA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the THA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

A request for an Informal Hearing must be received in writing by the close of the business day, no later than ten (10) days from the date of the THA's notification of proposed termination of assistance. When the THA receives a request for an informal hearing, a hearing shall be scheduled within ten (10) days. The notification of hearing will contain:

The date and time of the hearing

The location where the hearing will be held

The family's right to bring evidence, witnesses, legal or other representation at the family's expense

The right to view any documents or evidence in the possession of the THA upon which the THA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing.

A notice to the family that the THA will request a copy of any documents or evidence the family will use at the hearing.

The THA's Hearing Procedures

After a hearing date is set, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If the family does not appear at the scheduled time, and did not make arrangements in advance, the THA will not automatically reschedule the hearing.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the THA within 48 hours, excluding weekends and holidays. The THA will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to:

Present written or oral objections to the THA's determination.

Examine the documents in the file which are the basis for the THA's action, and all documents submitted to the Hearing Officer;

Copy any relevant documents at their expense;

Present any information or witnesses pertinent to the issue of the hearing;

Request that THA staff be available or present at the hearing to answer questions pertinent to the case; and

Be represented by legal counsel, advocate, or other designated representative at their own expense.

If the family requests copies of documents relevant to the hearing, the THA will make the copies for the family and assess a charge of 25 cents per copy. In no case will the family be allowed to remove the file from the THA's office.

In addition to other rights contained in this Chapter, the THA 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 prior to the hearing;

Have its attorney present; and

Have staff persons and other witnesses familiar with the case present.

The Informal Hearing shall be conducted by the Hearing Officer appointed by the THA who is neither the person who made or approved the decision, nor a subordinate of that person. The THA appoints hearing officers who:

Are managers from within the THA or are grades 29 and above

Are professional mediators or arbitrators

Are affiliated with other housing agencies

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The family must request an audio recording of the hearing, if desired, five (5) days prior to the hearing date.

The Hearing Officer may ask the family for additional information and/or might adjourn the Hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the THA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the THA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing Findings shall be provided in writing to the THA and the family within **ten (10) days** and shall include:

- A clear summary of the decision and reasons for the decision;

- If the decision involves money owed, the amount owed;

- The date the decision goes into effect.

The THA is not bound by hearing decisions:

- Which concern matters in which the THA is not required to provide an opportunity for a hearing

- Which conflict with or contradict to HUD regulations or requirements;

- Which conflict with or contradict Federal, State or local laws; or

- Which exceed the authority of the person conducting the hearing.

The THA shall send a letter to the participant if it determines the THA is not bound by the Hearing Officer's determination within **ten (10) days of the decision**. The letter shall include the THA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the **final decision** will be retained in the family's file.

Family will have 10 days of receipt of the hearing notice to request a review of the hearing officer's decisions if the request is submitted in writing and clearly outlines his or her reason for review. The reasoning must be related to an unfairness of how the hearing was conducted, i.e., evidence was not allowed to be presented, witnesses could not be present, hearing was not rescheduled. Failure to submit timely will result with the decision to remain as rendered.

E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR Part 5, Subpart E]

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the THA hearing is pending but assistance to an applicant may be delayed pending the THA hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the THA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the THA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the THA a copy of the appeal and proof of mailing or the THA may proceed to deny or terminate. The time period to request an appeal may be extended by the THA for good cause.

The request for a THA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the THA will:

Deny the applicant family

Defer termination if the family is a participant and qualifies for deferral

Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the THA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

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, 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 termination.

Participants whose assistance is pro-rated (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.

F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204, 982.552(c)]

When applicants are denied placement on the waiting list, or the THA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

Chapter 20

SPECIAL HOUSING PROGRAMS

[24 CFR 982.601]

INTRODUCTION

The THA will permit the use of manufactured homes in its program only if the applicant/participate can demonstrate that it is needed as a reasonable accommodation for a person with a disability. Acceptable demonstration will include documentation from one or more knowledgeable professionals who are familiar with the applicant/participant and or the type of special housing requested as accommodation. The THA will permit the use of the homeownership option for eligible families as outlined in this policy.

The THA will not set aside any program funding for special housing types, or for a special housing type.

Verification of Need of Reasonable Accommodation

Documentation of the need, such as access to services, as well as documentation of disability.

A. MANUFACTURED HOMES [24 CFR 982.620]

The THA may permit a family to lease a manufactured home and space with assistance under the program. The THA will not provide assistance for a family that owns the manufactured home and leases only the space.

The THA may approve a live-in aide to reside with a family to care for a person with disabilities. The THA will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the THA approves a live-in aide, the live-in aide must be counted when determining the family unit size.

Housing Quality Standards [24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" chapter and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage.

A manufactured 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 wind overturning and sliding.

B. HOMEOWNERSHIP [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.

The THA 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.

The THA may make homeownership available to all who qualify, or restrict homeownership to families or purposes defined by the THA. The THA may also limit the number of families assisted with homeownership.

The THA will offer the homeownership option only to participating families who:

- Are currently enrolled in the Family Self-Sufficiency (FSS) Program and in compliance with the FSS contract.

- Are graduates of the THA's Family Self-Sufficiency FSS program.

- Are elderly or disabled and meet the eligibility requirements.

- Any qualifying participant who meets the guidelines to pre-qualify for a mortgage.

The THA will offer the homeownership option to applicant families who:

- Are currently enrolled and participating in a self-sufficiency program operated by a Federal, State or local agency.

- Contain at least 1 adult family member who has been fully employed for at least 5 years.

The THA will initially limit homeownership to a maximum of one hundred (100) families at any given time. The maximum program size may be increased at the discretion of the Director of Assisted Housing.

Eligibility Requirements [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance.

- The family must be eligible for the Housing Choice Voucher program.

- The family must qualify as a first-time homeowner, or may be a co-operative member.

- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home.

For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.

For elderly or disabled families, welfare assistance payments for adults family members who will own the home will be included in determining whether the family meets the minimum income requirement.

The family must meet the Federal minimum employment requirement.

At least one adult family member who will own the home must be currently employed full time and must have been continuously employed for one year prior to homeownership assistance.

HUD regulations define “full time employment” as not less than an average of 30 hours per week.

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 exceed 30 calendar days; and

did not occur within the 9 month period immediately prior to the family’s request to utilize the homeownership option; and

has been the only break in employment within the past 12 calendar months.

The Federal minimum employment requirement does not apply to elderly or disabled families.

Any family member who has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future homeownership assistance.

The THA will impose the following additional initial requirements:

The family has had no family-caused violations of HUD’s Housing Quality Standards within the last twelve (12) months, which resulted in administrative action against the family.

The family does not owe money to the THA.

The family has not committed any serious or repeated violations of a THA-assisted lease within the past twelve (12) months.

Homeownership Counseling Requirements [24 CFR 982.630]

When the family has been determined eligible, they must attend and complete homeownership counseling sessions. These counseling sessions will be conducted by THA staff, Consumer Credit Counseling Services or other HUD-approved housing counseling agency. Such counseling shall be consistent with HUD-approved housing counseling.

The following topics will be included in the homeownership counseling sessions:

- Home maintenance (including care of the grounds);

- Budgeting and money management;

- Credit counseling;

- How to negotiate the purchase price of a home;

- How to obtain homeownership financing and loan 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 THA 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 about RESPA, state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions;

- Home Inspections;

- Working with realtors;

- Closing on the home.

Eligible Units [24 CFR 982.628]

The unit must meet all of the following 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.

The unit was already existing or under construction at the time the family was determined eligible for homeownership assistance.

The unit is a one-unit property or a single dwelling unit in a cooperative or condominium.

The unit has been inspected by the THA and by an independent inspector designated by the family.

The unit meets HUD Housing Quality Standards.

The THA must not approve the seller of the unit if the THA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

THA Search and Purchase Requirements [24 CFR 982.629]

The THA has established the maximum time that will be allowed for a family to locate and purchase a home.

The family's deadline date for locating a home to purchase will be **ninety (90) days** from the date the family's eligibility for the homeownership option is determined. The Program Administrator may recommend three (3) additional 30-day extensions, not to exceed a total of 180 home shopping days. Additional 30-day extensions are available on a case-by-case basis and subject to the approval of the Director of Assisted Housing.

The family must obtain financing for the home within **ninety (90) days** of the date eligibility for the homeownership program is determined.

The family must purchase the home within **forty-five (45) days** of locating a home to purchase, **unless they can demonstrate that delay is due to lender and/or seller obstacles and not that of the family.**

The THA will require periodic reports on the family's progress in finding and purchasing a home. Such reports will be provided by the family at intervals of thirty (30) days.

If the family is unable to purchase a home within the maximum time limit, the THA will issue the family a voucher to lease a unit. The family may not re-apply for the Homeownership Program until they have completed an additional full year of participation in the rental program following the expiration date of the Homeownership Voucher.

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Inspection and Contract [24 CFR 982.631]

The unit must meet Housing Quality Standards, and must also be inspected by an independent professional inspector selected and paid by the family.

The independent inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components. These systems and components include, but are not limited to:

Foundation and structure;

Housing interior and exterior;

Roofing;

Plumbing, electrical and heating systems.

The independent inspector must not be a THA employee or contractor. The THA will not require the family to use an independent inspector selected by the THA, but the THA has established the following standards for qualification of inspectors selected by the family.

The THA requires the following qualifications for independent inspectors: Certification from the American Society of Home Inspectors.

Copies of the independent inspection report will be provided to the family and the PHA. Based on the information in this report, the family and the THA will determine whether any pre-purchase repairs are necessary.

The THA may disapprove the unit for homeownership assistance because of information the report.

The family must enter into a contract of sale with the seller of the unit. A copy of the contract must be given to the THA. The contract of sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home. The contract must also:

Provide that the purchaser is not obligated to buy the unit unless the inspection is satisfactory;

Provide that the purchaser is not obligated to pay for necessary repairs; and

Contain the seller's certification that he or she has not been debarred, suspended or subject to a limited denial of participation.

Financing [24 CFR 982.632]

The family is responsible for securing financing. The THA has established financing requirements, listed below, and may disapprove proposed financing if the THA determines that the debt is unaffordable.

FHA

Conventional

VA

The THA will prohibit the following forms of financing:

balloon payment mortgages

variable interest rate loans

seller financing

The THA will require a minimum cash down payment of three percent of purchase price of which one percent is to be paid from the family's own resources.

The family must have an established bank account that documents an average balance of \$500.00, over the past three months prior to receiving homeownership assistance. An FSS escrow account satisfies this requirement.

Continued Assistance [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. The family or lender is not required to refund homeownership assistance for the month when the family moves out.

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 CFR 982.551 (h) and (i).

The family must supply information to the THA or HUD as specified in CFR 982.551(b). The family must further supply any information required by the THA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.

Refinancing the property, without prior written approval from the THA, may result in termination of the HCV Homeownership assistance.

The family must notify the THA before moving out of the home.

The family must notify the THA if the family defaults on the mortgage used to purchase the home.

No family member may have any ownership interest in any other residential property.

The family must attend and complete ongoing homeownership counseling.

The home must pass a HUD Housing Quality Standards inspection initially only.

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.

The Head of Household or spouse must remain continuously employed while participating on the program. Part-time employment by both parties, totaling over 30 hours per week, does not constitute full-time employment.

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) 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 2665 ($\$7.50 \times 2665 = \$19,987.50$)

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:

The THA will consider mitigating circumstances where certain lapses in employment prohibit the family from meeting its continuous employment obligation. These include the following:

If a working family is subsequently determined by THA to now qualify as a “disabled family”, as defined by HUD, the full-time employment requirement is no longer applicable to that family;

Receipt of Unemployment Insurance Benefits due to layoff;

Absences defined under the Family Medical Leave Act;

Receipt of Workman’s compensation benefits.

The participant must return to full-time employment within 30 days after exhaustion of applicable benefits or termination of employment without benefits. Failure to return to full-time employment (30 hours per week) within 30-days of exhaustion of applicable benefits, and/or

termination of employment, will generate a 60-Day Notice to Correct. Failure to correct will result in a correctable 30-Day Notice of Termination.

Consideration of any other mitigating circumstance may be at the discretion of the Program Administrator, but with the final approval given by the Director of Assisted Housing.

Changes in Income Eligibility:

Should family go to zero HAP, for 180 consecutive days, the THA reserves the right to extend the period past 180 days, should there be documented extenuating circumstances for an extension to the time period. Such documented extenuating circumstances include, but is 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 THA shall reinstate the family into the program subject to available funding and other program requirements.

RESOLUTION 2013-3841 APPROVED JULY 24TH 2013

Maximum Term of Homeownership Assistance [24 CFR 982.634]

Except in the case of elderly or disabled families, the maximum term of homeownership assistance is:

15 years, if the initial mortgage term is 20 years or longer, or

10 years in all other cases.

The elderly exception only applies if the family qualified as elderly at the start of homeownership assistance. The disabled exception applies if, at any time during receipt of homeownership assistance, the family qualifies as disabled.

If the family ceases to qualify as elderly or disabled during the course of homeownership assistance, the maximum term becomes applicable from the date assistance commenced. However, such a family must be afforded at least 6 months of homeownership assistance after the maximum term becomes applicable.

If the family receives homeownership assistance for different homes, or from different THAs, the total is subject to the maximum term limitations.

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 THA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in this plan for the Housing Choice Voucher program.

The payment standard for the family is the greater of: (1) The payment standard at the commencement of homeownership assistance for occupancy of the home; or (2) 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 THA will pay the homeownership assistance payment directly to the family and the family will pay the mortgage directly to the bank.

A family may receive money above the mortgage payment due to the total cost of homeownership allowances intended to allow program families to set aside an amount each month for major or minor repairs. Sometimes families will receive an actual check due to these allowances. If a family does receive a check, this amount must be maintained in a savings account. This replacement reserve would be used by the homeowner for any type of improvements and major or minor repairs and the family would be required to, at annual recertification, provide proof of the account of the replacement reserve. Families who fail to maintain this account will receive additional counseling as it relates to saving for the instance of any necessary repairs. **(Resolution 2011-3718 adopted 02/16/2011).**

Some homeownership expenses are allowances or standards determined by the THA 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.

The THA will allow a down payment assistance grant equal to 12 months HAP, in lieu of ongoing assistance.

[Resolution 3310, adopted 3/26/03]

Homeownership expenses include:

Principal and interest on mortgage debt.

Mortgage insurance premium.

Taxes and insurance.

The THA utility allowance used for the voucher program.

The THA allowance for routine maintenance costs and allowance for major repairs is \$100 a month for those families who do not have a Home Warranty Plan. Those with a Home Warranty will receive an allowance of \$50 a month. Families that close on a home after March 27th, 2013 will be required to purchase a Home Warranty Plan of their choosing and will be required to renew such plan annually. Proof of purchase will be part of the recertification process.

RESOLUTION 2013-3825 approved March 27th, 2013

Principal and interest on debt for improvements.

If the home is a cooperative or condominium, expenses also include operating expenses or maintenance fees assessed by the homeowner association.

Portability [24 CFR 982.636, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and in Chapter 13 of this plan, the family may exercise portability if the receiving THA is administering a voucher homeownership program and accepting new homeownership families.

The receiving PHA may absorb the family into its voucher program, or bill the initial PHA. The receiving PHA arranges for housing counseling and the receiving THA's homeownership policies apply. In order to remain eligible for the program, the participant must sell the current home purchased under the HCV Homeownership Program and incur no mortgage default.

RESOLUTION 2013-3841 APPROVED JULY 24TH 2013

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 THA prohibits more than one move by the family during any one year period.

The THA will deny permission to move with continued rental or homeownership assistance if the THA determines that it does not have sufficient funding to provide continued assistance.

The THA will require the family to complete additional homeownership counseling prior to moving to a new unit with continued assistance under the homeownership option.

Denial or Termination of Assistance [24 CFR 982.638]

Termination of homeownership assistance is governed by the policies for the Housing Choice Voucher program contained in chapter 15 of the Administrative Plan. However, the provisions of CFR 982.551 (c) through (j) are not applicable to homeownership.

The THA will terminate homeownership assistance if the family is dispossessed from the home due to a judgment or order of foreclosure.

The THA 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 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 THA will not permit such a family to move with voucher rental assistance.

The THA will terminate homeownership assistance if the family violates any of the family obligations contained in this section.

The THA will terminate homeownership assistance if the family violates any of the following family obligations:

Transfer or conveyance of ownership of the home;

Providing requested information to the THA or HUD;

Notifying the THA before moving out of the home.

Recapture [24 CFR 982.625]

The THA 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.

RESOLUTION 2013-3841 APPROVED JULY 24TH 2013

C FAMILY UNIFICATION PROGRAM (FUP)

In 1990, Congress authorized the Family Unification Program (FUP). This program was established when the lack of adequate housing emerged as a critical factor in the out-of-home placement of children. The intent of the program is to provide timely housing voucher assistance for reunifying families or for families whose children are at risk of out-of-home placement due to inadequate housing. It is administered by collaborating housing agencies and Child Welfare Agencies (CWA), FUP provides CWA families with Section 8 rental assistance.

Since 1994, the Tampa Housing Authority has received a Federal Grant providing for housing vouchers for families at risk of their children entering out-of-home care or reunifying families for 355 families. A Memorandum of Understanding was executed between Eckered Alternatives, Inc. through the Child Welfare Services Agency.

FUP vouchers are administered in accordance with the prescribed operating requirements (24 CFR Section 982). Additionally, as specifically required by the Appropriations Act, upon turnover, a voucher issued to a FUP eligible family must be re-issued to another FUP eligible family. Once the family receives a FUP Voucher, terminations may occur because of the family's action or failure to act. The family will not be terminated if the child(ren) is not returned.

HOTMA2016 has revised the Family Unification Program for Children Aging out of Foster Care – makes changes to the FUP, revising the length of the term that a FUP-eligible youth may receive FUP assistance from 18 months to 36 months. The change applies to youth currently receiving FUP assistance as well as any new participants. The law also revises the eligibility requirements. Previously, FUP-eligible youth had to be at least 18 years old and not more than 21 and have left foster care at age 16 or older. Under the new law, FUP-eligible youth must: Be at least 18 years old and not more than 24; have left foster care at age 16 or older or will leave foster care within 90-days; and be homeless or at risk of being homeless.

Youth aging out of foster care has been further revised as follows:

For a period not to exceed 36 months, otherwise eligible youths who have attained at least 18 years and not more than 24 years of age and who have left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, and is homeless or is at risk of becoming homeless at age 16 or older.

All policies and procedures are outlined in the Memorandum Of Understanding for the program.

D HUDVASH

The 2008 Consolidated Appropriations Act (the Act) enacted in 12/26/07, provided million of dollars of funding for the HUD-Veterans Affairs Supportive Housing (HUD-VASH) voucher program. To date the agency has been awarded 365 HUDVASH Vouchers.

HUD awarded funding for HUD-VASH vouchers and the funding was made available to public housing agencies (PHAs) that partner with eligible VA Medical Centers (VAMC) or other

entities as designated by the Secretary of the Department of Veterans Affairs, based on geographical need for such assistance as identified by the Secretary of the Department of Veterans Affairs.

The HUD-VASH program combines HUD HCV rental assistance for homeless veterans with case management and clinical services provided by the Veterans Affairs at its medical centers and in the community.

Generally, the HUD-VASH HCV program will be administered in accordance with regular HCV program requirements (24 CFR Section 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 in order to effectively deliver and administer HUD-VASH voucher assistance.

June 2011 HUD VASH NOTICE

HUD-VASH vouchers under this part are administered in accordance with the HCV tenant-based rental assistance regulations set forth at 24 CFR part 982. In the HCV program, the PHA pays monthly rental subsidies so that eligible families can afford decent, safe, and sanitary housing. HUD provides housing assistance funds to the PHA, as well as funds for PHA administration of the program.

Under the HCV tenant-based program, families select and rent units that meet program housing-quality standards. If the PHA approves a family's unit and tenancy, the PHA contracts with the owner to make rent subsidy payments (housing assistance payments) directly to the owner on behalf of the family on a monthly basis. The family enters into a lease with the owner and pays its share of the rent to the owner in accordance with the lease. The housing assistance payment (HAP) contract between the PHA and the owner covers only a single unit and a specific assisted family. If the family moves out of the leased unit, the HAP contract with the owner terminates. The family may generally move to another unit with continued assistance so long as the family is complying with program requirements.

Unless expressly noted below, all regulatory requirements and HUD directives regarding the HCV tenant-based program are applicable to HUD-VASH vouchers, including the use of all HUD-required contracts and other forms. The PHA's local discretionary policies adopted in the PHA's written administrative plan apply to HUD-VASH vouchers, unless such local policy conflicts with the requirements of the HUD-VASH vouchers outlined below.

PHAs are required to maintain records that allow for the easy identification of families receiving HUD-VASH vouchers. PHAs must identify these families in the 6 Public and Indian Housing Information Center (PIC). This record-keeping will help ensure that, in accordance with appropriations renewal language, HUD-VASH vouchers that are in use will remain available for homeless veterans upon turnover.

a. Family Eligibility and Selection

HUD-VASH eligible families are homeless veterans. The 2008 Appropriation Act provides for statutory or regulatory waivers or alternative requirements upon a finding by the

Secretary that such waivers or alternatives are necessary for the effective administration and delivery of voucher assistance. The December 17, 2007, Explanatory Statement for the 2008 Appropriation Act provides, “The Appropriations Committees expect that these vouchers will be made available to all homeless veterans, including recently returning veterans” (153 Cong. Rec. H16514 (daily ed., Dec. 17, 2007)). HUD, through its undersigned Secretary, finds the following waivers necessary to effectively administer and deliver the program to all veterans in accordance with Congressional intent.

Section 8(o)(19) of the United States Housing Act of 1937 (USHA of 1937), which requires homeless veterans to have chronic mental illnesses or chronic substance use disorders with required treatment of these disorders as a condition of receipt of HUD-VASH assistance, is waived.

The VAMC will refer HUD-VASH eligible families to the PHA for the issuance of vouchers. Written documentation of these referrals must be maintained in the tenant file at the PHA. Therefore, the PHA will not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. Accordingly, section 8(o)(6)(A) of the USHA of 1937, 42 U.S.C. 1437f(o)(6)(A), in regard to preferences, has been waived to provide for the effective administration of the program. In addition, 24 CFR 982.202, 982.204, and 982.207, relating to applicant selection from the waiting list and local preferences, are also waived. Sections 982.203, 982.205, and 982.206 regarding special admissions, cross-listing of the waiting list, and opening and closing the waiting list do not apply to the HUD-VASH program.

The VAMC will screen all families in accordance with its screening criteria. By agreeing to administer the HUD-VASH program, the PHA is relinquishing its authority to determine the eligibility of families in accordance with regular HCV program rules and PHA policies. Specifically, under the HUD-VASH program, PHAs will not have the authority to screen potentially eligible families or deny assistance for any grounds permitted under 24 CFR 982.552 (broad denial for violations of HCV program requirements) and 982.553 (specific denial for criminals and alcohol abusers), with one exception. PHAs will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, the Department is exercising its authority to waive 42 U.S.C. 1437d(s); 42 U.S.C. 13661(a), (b), and (c); and 24 CFR Sections 982.552 and 982.553, with the exception of 982.553(a)(2)(i), which requires denial of admission to certain registered sex offenders.

Civil rights requirements cannot be waived. The HUD-VASH program is administered in accordance with applicable Fair Housing requirements. These requirements prohibit discrimination on the basis of race, color, religion, sex, familial status, national origin, or disability. When disabled veterans are HUD-VASH recipients, HUD’s reasonable accommodation standards apply.

8 b. Income Eligibility

The PHA must determine income eligibility for HUD-VASH families in accordance with 24 CFR 982.201. Income targeting requirements of section 16(b) of the USHA of 1937, as well as 24 CFR 982.201(b)(2), do not apply for HUD-VASH families so that participating PHAs can effectively serve the eligible population specified in the 2008 Appropriation Act; that is, homeless veterans, who may be at a variety of income levels. The PHA may, however, choose to include the admission of extremely low- income HUD-VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

c. Initial Term of the HCV

Recognizing the challenges that HUD-VASH participants may face with their housing search, HUD-VASH vouchers must have an initial search term of at least 120 days. Therefore, § 982.303(a), which states that the initial search term must be at least 60 days, shall not apply, since the initial term must be at least 120 days. Any extensions, suspensions, and progress reports will remain under the policies in the PHA's administrative plan, but will apply after the minimum 120-day initial search term.

d. Initial Lease Term

Under the HCV program, voucher participants must enter into an initial lease with the owner for one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice. To provide a greater range of housing opportunities for HUD-VASH voucher holders, initial leases may be less than 9 12 months; therefore, both section 8(o)(7)(A) of the USHA of 1937, 42 U.S.C. 1437f(o)(7)(A), and 24 CFR 982.309(a)(2)(ii) are waived.

e. Ineligible Housing

HUD-VASH families will be permitted to live on the grounds of a VAMC in units owned by the VA. Therefore, 24 CFR 982.352(a)(5), which prohibits units on the grounds of a medical, mental, or similar public or private institution, is waived for that purpose only. f. Mobility and Portability of HUD-VASH Vouchers

An eligible family issued a HUD-VASH voucher must receive case management services provided by the VAMC. Therefore, special mobility and portability procedures must be established. HUD-VASH participant families may reside only in those jurisdictional areas that are accessible to case management services as determined by the partnering VAMC. Since the VAMC will be identifying homeless veterans eligible to participate in the HUD-VASH program, section 8(r)(1)(B)(i) of the USHA of 1937, 42 U.S.C. 1437f(r)(1)(B)(i), which restricts portability in cases where the family did not reside in the jurisdiction of the PHA at the time of application for HCV assistance, and 24 CFR 982.353(a), (b), and (c), which affects where a family can lease a unit with HCV assistance, do not apply.

(1) Portability Moves Where Case Management is Provided by the Initial PHA's Partnering VAMC.

If the family initially leases up, or moves, under portability provisions, but the initial PHA's partnering VAMC will still be able to provide the necessary case management services due to its proximity to the partnering VAMC, the receiving PHA must process the move in accordance with the portability procedures of 24 CFR 982.355. However, since the initial PHA must maintain records on all HUD-VASH families receiving case management services from its partnering VAMC, receiving PHAs must bill the initial PHA. Therefore, 24 CFR 982.355(d), which gives the receiving PHA the option to absorb the family into its own HCV program or bill the initial PHA, is not applicable.

When the receiving PHA completes the form HUD-50058 under the scenarios above, the action type that must be recorded on line 2a is "1" for a new admission (a family that is new to the HCV program) or "4" for a portability move-in (a family that was previously leased up in the jurisdiction of the initial PHA). Whether the family is a new admission or portability move-in, in section 12 of the HUD-50058, line 12d is marked "Y," 12e must have an amount recorded, and 12f must include the initial PHA's code.

(2) Portability Moves Where Case Management is Provided by the Receiving PHA's Partnering VAMC.

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC to provide case management services, the VAMC must first determine that the HUD-VASH family could be served by another VAMC that is participating in this program, and the receiving PHA must have a HUD-VASH voucher available for this family. In these cases, the families must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH program) or as a portability move-in (after an initial leasing in the initial PHA's jurisdiction). Upon absorption, the initial PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family, as determined by the partnering VAMC, and the absorbed family will count toward the number of HUD-VASH slots awarded to the receiving PHA.

When the receiving PHA completes the HUD-50058 under the scenarios above, the action type that must be recorded on line 2a is "1" for a new admission (a family that is new to the HCV program) or "4" for a portability move-in (a family that was previously leased up in the jurisdiction of the initial PHA). Whether the family is a new admission or portability move-in, in section 12 of the HUD-50058, line 12d is marked "Y," 12e must be 0 since the family must be absorbed, and 12f must be left blank.

g. Case Management Requirements

The VAMC responsibilities include: 1) the screening of homeless veterans to determine whether they meet the HUD-VASH program participation criteria established by the VA national office; 2) providing appropriate treatment and supportive services to potential HUD-VASH program participants, if needed, prior to PHA issuance of rental vouchers; 3) providing housing search assistance to HUD-VASH participants with rental vouchers; 4) identifying the social service and medical needs of HUD-VASH participants and providing, or ensuring the provision of, regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout this initiative; and 5) maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

As a condition of HCV rental assistance, a HUD-VASH eligible family must receive the case management services noted above from the VAMC. Therefore, a HUD-12

VASH participant family's HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC. However, a VAMC determination that the participant family no longer requires case management is not grounds for termination of assistance. In such case, and at its option, the PHA may offer the family continued HCV assistance through one of its regular vouchers, to free up the HUD-VASH voucher for another eligible family referred by the VAMC. h. Turnover of HUD-VASH Vouchers

In accordance with the 2008 Appropriation Act, upon turnover, HUD-VASH vouchers must be issued to eligible families as identified by the VAMC, as noted above. i. Moving-to-Work (MTW) Agencies

HUD-VASH vouchers must be administered in accordance with this Notice and are not eligible for fungibility under their MTW agreements. HUD-VASH vouchers must be reported on separately from vouchers under the agency's MTW Agreement. j. Project-based Assistance

Although HUD-VASH vouchers are tenant-based rental assistance, the Department will consider, on a case-by-case basis, requests from the PHA (with the support of the VAMC) to project-base these vouchers in accordance with 24 CFR part 983.

k. Section Eight Management Assessment Program (SEMAP)

Since leasing of HUD-VASH vouchers will be dependent on referrals from the VAMC, the unit months and budget authority associated with these vouchers will not be included in the SEMAP leasing indicator denominator. Therefore, 24 CFR 985.3(n)(1)(i) and (ii) are waived. However, utilization of these vouchers will be monitored separately through HUD systems.

III. Reporting Requirements

A new code (VASH) has been established for use on line 2n of the Family Report (form HUD-50058), which provides for an indication if the family participates in "other special programs." The information collection requested on HUD-50058 has been approved by the Office of Management and Budget (OMB) and given OMB control number 2577-0083. No person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid OMB control number. This code must remain on the HUD-50058 for the duration of the HUD-VASH family's participation in the program. The PHA that administers the HUD-VASH voucher on behalf of the family (initial or receiving PHA under portability) must enter and maintain this code on the HUD-50058.

E Permanent Supportive Housing

Shelter Plus Care is Vento McKinney funded program that is established to assist homeless and chronic homeless families and individuals who have a disability. The THA administers 54 slots under this program under the Continuum of Care administered by the Homeless Coalition. THA partners with Mental Health Care, Inc who refers families to THA. All responsibilities of THA and Mental Health Care Inc., are outlined in the MOU signed with MHC.

Eligibility

All individuals or families are identified through the coordinated intake waitlist system. Once identified on the list, the outreach worker will try and locate the family. The outreach worker will verify homelessness and will assist with the application for assistance, copies of birth certificates, social security cards, and proof of income and assets. THA will send out verification for disability if not evident. Disability has to be determined by a credentialed psychiatric or

medical professional trained to make such a determination. The possession of a title such as case manager or substance abuse counselor does not by itself qualify a person to make that determination. "Self-certification" is also unacceptable. PSH grantees are required to document how it was determined that participants did not have the resources or support network needed to obtain housing

The following defines homelessness and disability.

Definition and Documentation of Disability

Disability

Can be diagnosed with one or more of the following conditions: substance abuse disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act of 2000, post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability.

This can be verified through the following:

Written verification of the disability from a professional licensed by the state to diagnose and treat the disability and his or her certification that the disability is expected to be long continuing or of indefinite duration and substantially impedes the individuals ability to live independently

Written verification from the Social Security Administration

The receipt of a disability check

Intake staff recorded observation of disability that, no later than 45 days from the application for assistance is confirmed and accompanied by evidence suggested

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The definition of disabled [[24 CFR 582.5](#)] that is used as the basis for determining eligibility in the PSH program are defined as:

"Persons with disabilities" — a household composed of one or more persons at least one of whom is an adult who has a disability.

1. A person shall be considered to have a disability if such person has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such nature that such ability could be improved by more suitable housing conditions.

2. A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that :

- (i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) Is manifested before the person attains age 22;
- (iii) Is likely to continue indefinitely;
- (iv) Results in substantial functional limitations in three or more of the following areas of major life activity;
 - (A) Self-care
 - (B) Receptive and expressive language;
 - (C) Learning;
 - (D) Mobility;
 - (E) Self-direction;
 - (F) Capacity for independent living; and
 - (G) Economic self-sufficiency; and
- (v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

Key to the definition is determining that the impairment is of long-continued and indefinite duration **AND substantially impedes** the person's ability to live independently. For example, drug or alcohol abuse or an HIV/AIDS condition that does not substantially impede a person's ability to live independently **does not** qualify as a disability in the S+C Program.

Definition and Documentation of Homelessness

Chronically homeless is defined to mean a homeless individual with a disability who lives either in a place not meant for human habitation, a safe haven, or in an emergency shelter, or in an institutional care facility if the individual has been living in the facility for fewer than 90 days and had been living in a place not meant for human habitation, a safe haven, or in an emergency shelter immediately before entering the institutional care facility.

In order to meet the definition, the individual also must have been living as described above continuously for at least 12 months, or on at least four separate occasions in the last 3 years, where the combined total length of time of at least 12 months or on at least four separate occasions in the last 3 years where the combined total length of time of at least 12 months. Each period separating the occasions must include at least 7 nights of living in a situation other than a place not meant for human habitation in an emergency shelter or in a safe haven.

Documenting homelessness must be in this order:

1st Third party documentation such as outreach worker, HMIS- a single encounter with a homeless service provider on a single day within a month is sufficient to consider an individual

as homeless and living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter

2nd Intake worker observations

3rd certification from individual seeking assistance.

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In general, a person is considered homeless if, without HUD assistance, he or she would have to spend the night in a homeless shelter or in a place not meant for human habitation.

More specifically, a person is considered homeless only when (s)he resides in one of the four places described below. For persons assisted with Permanent Housing, in new and renewal projects, they must be homeless and come from:

- a) Places not meant for human habitation, such as cars, parks, sidewalks, and abandoned buildings;
- b) An emergency shelter;
- c) Transitional housing for homeless persons and who originally came from the streets or emergency shelter; or,
- d) A HUD-defined Safe Haven

If a person is in one of the four categories listed above, but most recently spent less than 90 days in a jail or institution, (s)he continues to qualify as coming from one of these categories.

In addition to coming from the above four categories, projects providing Transitional Housing, or Supportive Services Only may also serve populations experiencing the following circumstances:

- e) Eviction within a week from a private dwelling unit and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing; or
- f) Discharge within a week from an institution in which the person has been a resident for 90 or fewer consecutive days and no subsequent residence has been identified and (s)he lacks the resources and support networks needed to obtain housing.

THA staff will conduct a cursory review of criminal charges to ensure family is not listed as a sexual predator. Once the preliminary review is done, THA staff will schedule an interview with client and caseworker from MHC to discuss the normal leasing requirements and obligations to the program as outlined in the Administrative Plan and Procedures.

Interview

During this interview, families will be required to sign a form outlining his or her obligations to the program, an application, a DD Form 214, an authorization to release information form, and a subsidy form outlining potential rent.

Families will be provided a briefing on the program requirements, leasing a unit, searching for a unit, security deposits, utility allowances, and rent determinations. The process for the above mentioned will be used as is outlined in the Section 8 Administrative Plan.

Families will receive a request for tenancy approval to provide to the owner in order for the agency to determine family eligibility for unit based on income and rent reasonableness.

Calculating rents

Families rent will be based on no more than 30% of income and all income and assets will be verify to determine the appropriate rent payment for an S+C participant, program operators need to follow these steps:

1. Calculate 10 percent of monthly gross income.
2. Calculate 30 percent of monthly adjusted income.
3. Determine whether a welfare rent may apply, and, if so, determine the amount.
4. Determine which of these three rent amounts is the highest.
5. Set the participant's monthly rent contribution at this amount.

The definitions of annual gross income, adjusted income, and welfare rent and the allowable deductions and adjustments to income are described in detail in [CPD Notice 96-3](#) and can also be found in regulation at [24 CFR Part 5 Subpart F](#). A few things to keep in mind when making these calculations are:

- Types of income that must be included are employment income, social security, welfare assistance, unemployment benefits, and disability or worker's compensation.
- Some income may be eligible for exclusion. Examples include income earned by children under age 18, payment received for the care of foster children or adults, and reimbursement for the cost of medical expenses. These amounts are subtracted from household income before the rent contribution is calculated.
- The "disallowance of increase in annual income" provision in 24 CFR 5.617 does not apply to the S+C program.

Leasing a unit

Families will provide a RFTA to the THA to determine whether or not the rent is reasonable for the unit. This is done using either GOSECTION8 or CGI. If rent is determined reasonable, the family's RTA will be sent to inspections. If the unit passes the Housing Quality Standards as outlined in the Administrative Plan and set forth by HUD regulations, family will be notified he or she can move in once a signed lease is received. Once a lease is received, the counselor will initiate the Shelter Plus Care Contract.

Termination of Assistance

Procedures for terminating a family are outlined in the Administrative Plan Chapter 15 if the family violates rental assistance *may* be terminated if a participant violates conditions of occupancy.

The S+C Program permits grantees to resume assistance to persons or families whose assistance was previously terminated.

If a family has been terminated from the Shelter Plus Care Program, MHC will be contacted to refer another family to the specific grant.

F. HOPWA

(1) Referrals

Families will be referred by Francis House which will determine initial eligibility for the HOPWA program by determining if the families are eligible as defined by CFR Title 24 Part 574.3 by verifying that at least one person who has Acquired Immunodeficiency Syndrome (AIDS) or related diseases (Human Immunodeficiency Virus, that is, HIV infection). This includes households where the only eligible person is a minor. Medical verification of status is required.

(2) Eligibility

Upon receipt of the referred families, Tampa Housing Authority will determine eligibility and confirm receipt of a verification of eligibility.

Program participant eligibility is determined as follows:

- Household has at least one person who has Acquired Immunodeficiency Syndrome (AIDS) or related diseases (Human Immunodeficiency Virus, that is, HIV infection). This includes households where the only eligible person is a minor. Medical verification of status is required.
- The household must be at or below 80 percent of Area Median Income (AMI)
- Families will also be screened to determine if any violent or criminal activity had occurred within the last 5 years of the date of application or referral.
- Life-time sexual offender registrant
- Debt owed to any other subsidized

(3) Leasing Process

This information will be gathered through an application process that must be done upon receipt of referral. To process and distribute housing subsidies to families identified by Francis House, THA will proceed as follows:

- Issuing rental assistance vouchers based on verifiable household income for 60 days
- Determining unit affordability
- Inspecting units to ensure compliance of the Housing Quality Standards
- Determining rent reasonableness
- Reviewing the lease and executing the Housing Assistance Payment Contract as prescribed by program regulation and the administrative plan.

(4) Determining Rental Payment

Resident rent payment. Except for persons in short-term supported housing, each person receiving rental assistance under this program or residing in any rental housing assisted under this program must pay as rent, including utilities, an amount which is the higher of:

- 30 percent of the family's monthly adjusted income (adjustment factors include the age of the individual, medical expenses, size of family and child care expenses and are described in detail in 24 CFR 5.609). The calculation of the family's monthly adjusted income must include the expense deductions provided in 24 CFR 5.611(a), and for eligible persons, the calculation of monthly adjusted income also must include the disallowance of earned income as provided in 24 CFR 5.617, if applicable;
- 10 percent of the family's monthly gross income; or
- If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payment that is designated for housing costs.

Family eligibility will be annually determined through a recertification process. This will occur approximately 90 days prior to the effective date of lease and or HAP contract.

(5) Termination of assistance

- Surviving family members. With respect to the 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 following the death of the person with AIDS. The grantee or project sponsor shall establish a reasonable grace period for continued participation by a surviving family member, but that period may not exceed one year from the death of the family member with AIDS. The grantee or project sponsor shall notify the family of the duration of their grace period and may assist the family with information on other available housing programs and with moving expenses.
- Violation of requirements—(i) Basis. Assistance to participants who reside in housing programs assisted under this part may be terminated if the participant violates program requirements or conditions of occupancy. Grantees must ensure that supportive services are provided, so that a participant's assistance is terminated only in the most severe cases.
Termination of Assistance
- Assistance to participants who reside in HOPWA assisted housing programs may be terminated if the client violates program requirements or conditions of occupancy. See HOPWA regulations, 24 CFR Part 574.310(2).
- If a participant's adjusted household income increases to above 80% of Area Median Income, the sponsor should take steps to terminate the participant from the HOPWA program.

(6) Informal Hearing Procedures

When the THA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The THA will give the family prompt notice of such determinations which will include:

The proposed action or decision of the THA;

The date the proposed action or decision will take place;

The family's right to an explanation of the basis for the THA's decision.

The procedures for requesting a hearing if the family disputes the action or decision;

The time limit for requesting the hearing.

When terminating assistance for criminal activity as shown by a criminal record, the THA will provide the subject of the record and the tenant/participant with a copy of the criminal record upon which the decision to terminate is based.

To whom the hearing request should be addressed

The THA must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following THA determinations:

Determination of the family's annual or adjusted income and the computation of the housing assistance payment

Appropriate utility allowance used from schedule

Family unit size determination under THA subsidy standards

Determination that pre-merger Certificate program family is under-occupied in their current unit and a request for exception is denied

Determination to terminate assistance for any reason.

Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account.

The THA must always provide the opportunity for an informal hearing before termination of assistance.

Informal Hearings are not required for established policies and procedures and THA determinations such as:

Discretionary administrative determinations by the THA

General policy issues or class grievances

Establishment of the THA schedule of utility allowances for families in the program

A THA determination not to approve an extension or suspension of a voucher term

A THA determination not to approve a unit or lease

A THA determination that an assisted unit is not in compliance with HQS (THA must provide hearing for family breach of HQS because that is a family obligation determination)

A THA determination that the unit is not in accordance with HQS because of the family size

A THA determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

Notification of Hearing

It is the THA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the THA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

A request for an Informal Hearing must be received in writing by the close of the business day, no later than ten (10) days from the date of the THA's notification of proposed termination of assistance. When the THA receives a request for an informal hearing, a hearing shall be scheduled within ten (10) days. The notification of hearing will contain:

The date and time of the hearing

The location where the hearing will be held

The family's right to bring evidence, witnesses, legal or other representation at the family's expense

The right to view any documents or evidence in the possession of the THA upon which the THA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing.

A notice to the family that the THA will request a copy of any documents or evidence the family will use at the hearing.

Hearing Procedures

After a hearing date is set, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If the family does not appear at the scheduled time, and did not make arrangements in advance, the THA will not automatically reschedule the hearing.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the THA within 48 hours, excluding weekends and holidays. The THA will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to:

Present written or oral objections to the THA's determination.

Examine the documents in the file which are the basis for the THA's action, and all documents submitted to the Hearing Officer;

Copy any relevant documents at their expense;

Present any information or witnesses pertinent to the issue of the hearing;

Request that THA staff be available or present at the hearing to answer questions pertinent to the case; and

Be represented by legal counsel, advocate, or other designated representative at their own expense.

If the family requests copies of documents relevant to the hearing, the THA will make the copies for the family and assess a charge of 25 cents per copy. In no case will the family be allowed to remove the file from the THA's office.

In addition to other rights contained in this Chapter, the THA 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 prior to the hearing;

Have its attorney present; and

Have staff persons and other witnesses familiar with the case present.

The Informal Hearing shall be conducted by the Hearing Officer appointed by the THA who is neither the person who made or approved the decision, nor a subordinate of that person. The THA appoints hearing officers who:

Are managers from within the THA or are grades 29 and above

Are professional mediators or arbitrators

Are affiliated with other housing agencies

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The family must request an audio recording of the hearing, if desired, five (5) days prior to the hearing date.

The Hearing Officer may ask the family for additional information and/or might adjourn the Hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the THA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the THA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing Findings shall be provided in writing to the THA and the family within ten (10) days and shall include:

A clear summary of the decision and reasons for the decision;

If the decision involves money owed, the amount owed;

The date the decision goes into effect.

The THA is not bound by hearing decisions:

Which concern matters in which the THA is not required to provide an opportunity for a hearing

Which conflict with or contradict to HUD regulations or requirements;

Which conflict with or contradict Federal, State or local laws; or

Which exceed the authority of the person conducting the hearing.

The THA shall send a letter to the participant if it determines the THA is not bound by the Hearing Officer's determination within ten (10) days of the decision. The letter shall include the THA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

(7) Maximum subsidy

The amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between:

- (i) The lower of the rent standard or reasonable rent for the unit; and
- (ii) The resident's rent payment calculated under §574.310(d).

The HOPWA TBRA program subsidy payment is the difference between the contract rent charged for an approved unit and the tenant rent payment. Besides the exceptions allowed as described above, the gross rent (contract rent plus any utilities paid by the tenant) cannot exceed HUD established FMR for that unit size in that area.

(8) Rent standard

The rent standard shall be established by the grantee and shall be no more than the published section 8 fair market rent (FMR) or the HUD-approved community-wide exception rent for the unit size. However, on a unit by unit basis, the grantee may increase that amount by up to 10 percent for up to 20 percent of the units assisted.

(9) Housing Quality Standards

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

The THA will inspect each unit under contract at least annually. The THA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the THA's required standards and to assure consistency in the THA's program. This Chapter describes the THA's procedures for performing HQS and other types of inspections, and THA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and THA requirements. (See the additions to HQS listed under "Acceptability Criteria and Exceptions to HQS" later in this chapter.)

Any reference to THA and inspections will also pertain to any entity hired to conduct Housing Quality Standard Inspections.

Guidelines/types of inspections

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The THA will not promote any additional acceptability criteria which is likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service prior to the effective date of the HAP contract. If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whomever is responsible for the utilities according to the RFAT) to have the utilities turned on. The tenant will certify that the utilities are on and provide receipt.

If the tenant is responsible for supplying the stove and/or the refrigerator, the THA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify that the appliances are in the unit and working. The THA will not conduct a re-inspection.

There are five types of inspections the THA will perform:

1. Initial/Move-in: Conducted upon receipt of Request for Approval of Tenancy.
2. Annual: Must be conducted within twelve months of the last annual inspection.
3. Move-Out/Vacate (for pre 10/2/95 contracts where there could be damage claims)
4. Special/Complaint: At request of owner, family or an agency or third-party.
5. Quality Control

Lead Based Paint

The Lead-Based Paint Poisoning Prevention Act (LBPPA) applies to HOPWA housing activities, including the provision of tenant-based rental assistance. The Act's implementation regulations can be found at 24 CFR 35, including sub-part M, "Tenant-based Rental Assistance." The requirements of the LBPPA apply a) when a child under the age of six is part of the household receiving HOPWA assistance and b) when the leased property was constructed before 1978. The requirements do not apply to SRO or zero-bedroom units. It is important to note that state and local requirements regarding lead paint may be stricter than federal requirements. In all cases, complying with federal requirements does not relieve the sponsor from also complying with local or state requirements.

There are six basic requirements for complying with HOPWA lead-based paint regulations:

1. Provision of HUD's "Protect Your Family From Lead In The Home" pamphlet.
2. Disclosure notice to occupants: The property owner or lessor of the property is required to disclose the presence of known lead-based paint in the unit to be leased.⁶

3. Visual assessment: Regulations require that a visual assessment of existing paint surfaces in dwellings constructed before 1978 be included in HQS inspections before a unit is leased. An on-line training in visual assessment is available and should be completed by project staff. It takes about an hour to complete.⁷

4. Paint stabilization: If a visual assessment reveals problems with paint surfaces, the property owner should undertake paint stabilization before the start of a lease. Specific guidelines for paint stabilization can be found in 24 CFR 35.1330(b).

5. Ongoing lead-based paint maintenance: A visual assessment of the stability of painted surfaces should be conducted as part of the annual recertification and HQS process.

6. Response to a child with elevated blood lead levels: When a child under the age of 6 living in a HOPWA leased unit is found to have elevated blood levels, a response process described in 24 CFR 35.1225 will take effect (consult the regulation for more detail).

(10) Rent reasonableness

The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units.

With respect to shared housing arrangements, the rent charged for an assisted family or individual shall be in relation to the size of the private space for that assisted family or individual in comparison to other private space in the shared unit, excluding common space. An assisted family or individual may be assigned a pro rata portion based on the ratio derived by dividing the number of bedrooms in their private space by the number of bedrooms in the unit. Participation in shared housing arrangements shall be voluntary.

(10) Confidentiality

Confidentiality of all records is required. Project Sponsors are required to have a written confidentiality policy and assure confidentiality of client name, information, and records. All information obtained in connection with the examination, care, or services provided to any client shall not be disclosed without the client's signed consent. There may be exceptions to client disclosure as required by law. Particular care must be taken to ensure confidentiality by having the Project Sponsor's correspondence, envelopes, and checks to landlords, utilities, etc., not reveal that the client is receiving assistance due to HIV/AIDS. Confidentiality requirements are set forth under the HUD regulations, 24 CFR 574.440

The Housing Authority of the City of Tampa

FAMILY SELF-SUFFICIENCY

ACTION PLAN



**The Housing Authority of the City of Tampa
Action Plan**

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IX. Monitoring Program Performance

I. INTRODUCTION

The purpose of the Housing Authority of the City of Tampa (HACT) FSS Action Plan revision is to reflect the program's current status, outline operational procedures and assurances, and highlight the comprehensive range of services encompassed within an integrated system of care.

II. MISSION STATEMENT

The purpose of the HACT Family Self-Sufficiency Program (FSS) is to promote the development of local strategies, to coordinate the use of assistance under the Housing Choice Voucher Program (HCV) with public and private resources, enable participating families to increase earned income and financial literacy, eliminate the need for welfare assistance, and make progress toward achieving economic independence and housing self-sufficiency. The Authority's FSS program provides critical tools that are used by families to develop new skills that lead to economic self-sufficiency. Through this program the Authority has established working partnerships with service providers and employers. As a result of participation in the FSS program, many families have achieved stable, well-paid employment, met many sufficiency goals, which has made it possible for them to become homeowners or move to other non-assisted housing or homeowners through the HCV program.

III. PARTICIPANT PROFILE

A. Demographic Profile of FSS Participating Families

All HCV participants are eligible to participate as long as there is an available position and the participant agrees and signs the FSS Contract. The current baseline for HCV participants is 8,271 with an FSS program size over 421 participants with a current cap of 450 unless there are additional approved FSS counselors. The current mandatory HUD FSS baseline is 128 participants. Families have the opportunity to reside in area of Hillsborough County excluding Plant City.

CURRENT DEMOGRAPHICS

Age of Head of Household	Actual Number
18-20	27
21-29	974
30-39	2237
40-49	1507
50-61	1358
62-69	565
70-79	360
80-89	186

Sex of Head of Household	Actual Number
Women	6756 - 91%
Men	636 - 8%

Race	Actual Number
Black	70% - 5085
Asian	.2% - 18
Am Indian	.1% - 6
Native American	0% - 3
White	28.9% - 2086
Multiple	.2% - 14

Ethnicity	Actual Number
Hispanic	1652
Non-Hispanic	5560

Relation Count	Actual Number
Adult	1473
Co-Head	50
Foster	12
Head	7212
Live-In	96
Spouse	380
Student	537
Youth	10833

MARKETING STRATEGIES:

Outreach Efforts	FUNCTION (Flyer distributions/ Presentations)	PROGRAM ACTIVITY	DATE(s)
	Open Enrollment	Program Services	Ongoing

B. Target Number of FSS Participants and Implementation Timetable

HACT already serves over the mandatory slots of 128 participants. THA will continue its outreach to encourage those families who are without income and are on welfare to enlist in the FSS program. THAs goal currently will be 450 participants. Once the cap is met, a waitlist will be established.

Program implementation has already occurred and outreach selection and enrollment are ongoing. FSS slots are in the process of being filled and will continue to be filled as vacancies occur and as additional slots are created. The services identified in this Action Plan are in place and are being accessed by FSS participants.

C. Supportive Needs of FSS Participating Families

As identified by the intake assessments, the primary barriers identified by FSS participants as prohibiting factors for becoming economically self-sufficient are:

- Lack of marketable employability skills
- Educational deficits

- Need for general counseling
- Lack of life skills
- Transportation
- Child care

Secondary barriers include:

- Low self-esteem
- Low self-worth
- Possible substance abuse issues
- Learned helplessness

The system of care HACT provides to FSS participants is responsive to these identified barriers of a culturally diverse population and strives to deliver resources that will counter barriers and mitigate needs.

IV. ORGANIZATION AND STAFFING

A. Staffing

The Department currently has 6 FSS counselors and a Homeownership counselor. The counselors are responsible for the recruitment, intake and case management of FSS participants. The FSS Counselors take a holistic approach to assessing needs and coordinating services for the HACT participants as a means of offering a continuum of care across various government and community-based organizations.

The FSS Counselors assist participants in goal setting, provides counseling and service referrals, and addresses program retention issues as they arise. The Counselor is also responsible for monitoring and maintaining the participants' escrow accounts.

B. FSS Program Coordinating Committee

HUD recommends the coordinating committee be comprised of members representing various city agencies, non-profit community-based organizations dealing with work readiness services, and non-profit service providers. The PCC includes representatives from organizations important to the welfare-to-work community in all its facets: educational, policy development, vocational training, and direct service delivery.

FSS Program Coordinating Committee Membership

CDC of Tampa
Early Childhood Learning Program
Hispanic Service Council

Housing Authority of the City of Tampa

Family Self-Sufficiency Action Plan

Arbors at Padgett Estates (Resident)
FSS Counselors – Assisted Housing Department
Hillsborough County Vocational/Technical Center
Tampa Community Health Center
President of Hillsborough Literacy Council
President of Tampa Bay Black Business Investment
Big Brothers Big Sisters
Hillsborough County Health Department
Welfare of Florida Transition Program
DACCO
Hillsborough County School District
Center for Affordable Housing
Tampa-Hillsborough Action Plan
USF Small Business Development Center
Vocational Rehabilitation
West Tampa Neighborhood Service Center
Chase Mutual Bank
Tampa Police Department Community Relations
Bay Area Legal Services
HARTline
James A. Haley, Veteran's Hospital
Brewster Technical Center
Erwin Technical Center
Centre for Women
Head Start
Dress for Success

V. OUTREACH AND RECRUITMENT

FSS recruitment efforts focus on program participants especially those receiving welfare (TANF) benefits and are currently without any income. Participation in the FSS program is not mandatory; however, the HACT actively implements outreach activities to enroll clients in the FSS program on a volunteer basis. HACT seeks highly motivated clients without regard to race, color, religion, sex, handicap, familial status, or national origin who choose to become self-sufficient.

Notices are provided at initial intake into the program, during ESS meetings, as well as during recertification meetings. Families are also referred to the FSS counselors by housing counselors.

- Outreach will be targeted equally to minority and non-minority families to ensure non-English and limited English speaking families receive information and have the opportunity to participate in the FSS program. Efforts will also be made to serve

persons with disabilities including, but not limited to, persons with impaired vision or hearing. Interpreters will be used as needed.

- Currently there are many programs in place to assist Youth aging out of Foster Care and may not need to the support of the FUP/FSS program; however, Eckerd Community Alternatives will continue to monitor and refer those individuals that meet the definition of youth aging out. Information regarding the FUP/FSS program will be disseminated at the COC meetings so that all community partners are aware.

A. FSS Family Selection Procedures

It is the policy of the HACT to comply with all Federal, state, and local nondiscrimination laws; the Americans with Disabilities Act; and the U.S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity. No person shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under the FSS program on the ground of race, color, sex, religion, national or ethnic origin, familial status, source of income, or disability. In addition, HACT's FSS staff will, upon request, provide reasonable accommodation to persons with disabilities to ensure they are able to take advantage of the services provided by the FSS program (see Requests for Reasonable Accommodations below).

The FSS staff has the primary responsibility to make sure participants are not discriminated against in the selection process. For families or individuals whose potential enrollment is in question, the FSS staff will review the file in a staff meeting to ensure non-selection is not based on discriminatory factors before the final decision is made. Applicants will be notified in writing of the reason(s) they were not selected for participation and will have the opportunity to appeal the decision (see section on Hearing Procedures).

At all times, HACT will select families for participation in the FSS program in accordance with HUD guidelines. Currently there is not an FSS waitlist but if in the future it is necessary families will be placed on a first come first serve and will be selected in that manner.

HACT clients who express an interest in the FSS program may be screened before being enrolled in the program within the following HUD allowable guideline: voluntary participation in an FSS program orientation on either a group or individual basis. The orientation will include a review of participant expectations, the services offered, and the requirements to complete the FSS program. Those interested clients who have successfully completed the program orientation and express further interest in enrollment will be chosen for participation based on a first come, first served policy.

Referrals for the FSS program may be accepted from, but are not limited to, any of the following: program counselors/managers, client advocacy/service provider agencies, current FSS participants, or self-referral. If all FSS program slots are filled, HACT will maintain a

waiting list of families to be enrolled based on a first come, first served policy and families will be enrolled through attrition as slots become available.

HACT, at its discretion, may deny participation in the FSS program to a family that previously participated and was terminated from FSS because the family did not meet their obligations according to the Contract of Participation. HACT, at its discretion, may allow a family that previously participated in the FSS program and was terminated to sign a new Contract of Participation if the cause for termination of the original contract was due to circumstances beyond the family's control, such as a serious illness.

B. FSS-FUP youth and family selection procedures-Intake

FUP eligible families are those families for whom the lack of adequate housing is a primary factor in:

- a. The imminent placement of the family's child or children in out-of-home care, or
- b. The delay in the discharge of the child or children to the family from out-of-home care

Youth at least 18 years old and not more than 21 years old who left foster care at age 16 or older and who lack adequate housing. Eligible youth who agree to enter into an FSS contract will be eligible for the length of the contract. Those that do not agree to participate in the FSS program will be allowed to participate for 36 months only.

Lack of adequate housing is defined as:

- a) Living in substandard or dilapidated housing
- b) Homeless
- c) In imminent danger of losing their housing
- d) Displaced by domestic violence
- e) Living in an overcrowded unit
- f) Living in housing not accessible to the youth or the youth's disabled child or children, due to the nature of the disability.

All FUP youth and families will be referred from Eckerd Alternative. All other agencies such as the COC and Juvenile Justice System will refer youth to Eckerd. Eckerd will determine eligibility for the Family Unification program and then will refer to THA using the normal referral process.

Upon receipt, THA will interview the youth/families to determine eligibility and explain the opportunities under the Family Self-Sufficiency program. All interested parties will be required to attend an FSS briefing.

FUP youth/families that are currently not enrolled in the FSS program will be extended the opportunity to attend an FSS informational briefing. If the youth/family signs the ITSP

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agreement, the youth/families would be entitled to the 5 year agreement with the possibility of extensions regardless of how many months he or she has already participated on the FUP program.

C. Assurances of noninterference with rights on nonparticipating families

During recruitment efforts, the HACT provides assurances to families that their election not to participate in the FSS program will in no way affect their admission, continued assistance in the Housing Choice Voucher program except for FUP youth aging out of foster care whose assistance will terminate if the FSS contract terminates.

VI. PARTICIPANT RIGHTS, RESPONSIBILITIES AND INCENTIVES

While conduct enabling participants to get and keep a job is strongly encouraged, for many FSS clients “work readiness” traits need to be learned through services that help develop appropriate behaviors and attitudes. FSS program efforts will direct services to clients who want to work but have not yet internalized the skills that would make this possible. Thus, the FSS environment is more of an educational setting where clients are informed and supported while pursuing vocational endeavors and high value is placed on self-discipline, emotional control, punctuality, and good grooming.

FUP-Youth Aging Out of Foster Care will be provided the following assessment and guidance:

- Youth’s independent living skills will be assessed using an on-line tool <http://lifeskills.casey.org/>
- Guidance on developing a complete and meaningful Independent Living Plan
- Resources for each section of the Independent Living Plan
- Information on teaching youth life skills and where to find curriculum

Sample goal setting through the ITSP plan will be as follows:

Skills/Behaviors: • Attend educational program regularly Identify GED testing site
• Successfully master the GED assessment • Use the Florida Career Information System to explore careers and post-secondary education • Take the ACT Test • Identify and apply to three post-secondary institutions • Complete financial aid paperwork • Establish long and short term employment goals • Attend a job or career fair • Identify and use many resources to locate employment, including online employment agencies, local employment agencies, etc. • Complete a resume and cover letter • Complete and return two job applications • Learn about potential job interview questions by participating in a mock job interview • Go to a job interview with appropriate dress, grooming and materials • Spend one or more days job shadowing a person who works in that area or interest • Demonstrate good attendance at work • Get to work on time for scheduled shifts • Demonstrate self-control, leadership

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Family Self-Sufficiency Action Plan

skills, group cooperation, anger management, and ethical behavior at work • Demonstrate appropriate appearance at work by following dress code and maintaining clean and professional work clothing.

The FSS counselor will be in contact with the youth no less than 4 times a month unless the youth have established a workable plan of self-sufficiency.

A. FSS Individual Training and Service Plan

Individual rights and responsibilities and FSS program commitments to the participant are outlined in the FSS Individual Training and Service Plan (ITSP), a contractual agreement that specifies the services, achievements, and interim goals expected to lead the client ultimately to self-sufficiency. Where appropriate, the ITSP will take into account similar plans that may have been developed by other employment-related programs and agencies. The ITSP also includes the FSS obligation to facilitate access to or directly provide services and support for the participant to achieve interim and final self-sufficiency goals.

The FSS ITSP will include interim achievements so progress may be monitored toward the ultimate goal of financial independence. If a participant fails to achieve an interim goal or maintain attendance and/or performance standards in any particular service or services, the FSS Counselor will first determine if the FSS program or any service provider failed to fulfill their obligations. If the responsibility is with the program itself or a service provider, the Counselor will investigate the reasons for the failure and take steps to correct them. The Counselor and the participant may also, if mutually agreeable, change the ITSP to substitute a different service or provider.

B. Meeting Responsibilities

Should a participant fail to maintain their ITSP obligations, the Counselor will investigate the specific causes for the failure. If external barriers are preventing participation, the Counselor will take steps to help remove them. If the failure is due to the participant's dissatisfaction with the ITSP or any part of the ITSP, the Counselor will attempt to determine the reasons for the dissatisfaction and try to reach an agreement with the participant.

If the Counselor determines that a participant has failed to fulfill the specific terms of the ITSP without good cause or has behaved in an inappropriate manner the contract may be terminated.

1. FUP Youth Aging Out of Foster Care

Should a participant fail to maintain the FSS contract through their ITSP obligations, without good cause or has behaved in an inappropriate manner, the contract may be terminated.

The youth will be offered an informal hearing to dispute the termination of assistance due to the termination of the FSS contract.

Upon termination of the FSS contract, and the 18 month time frame has not been met, the youth will remain a participant until the 18th month. If however the youth was terminated after the 18 month timeframe or receiving rental assistance, the youth will be terminated from the Family Unification Program.

C. Termination and Hearing Procedures

Involuntary Termination:

Participants may be denied or involuntarily terminated from FSS under the following circumstances:

1. If the participant fails to meet their obligations under the Contract of Participation, the ITSP, the Program Completion Agreement, and related documentation. Non-compliance includes:
 - Missing scheduled meetings
 - Failure to return phone calls
 - Failure to maintain monthly contact
 - Failure to complete quarterly face-to-face reviews
 - Failure to work on activities and/or goals set forth in the ITSP
 - Failure to complete activities and/or goals within the specified timeframes
 - Failure to participate in job-related activities such as: employment, education, training, workshops, completing application, etc.
2. If the participant has committed fraud in connection with any Federal housing assistance programs.
3. If the participant failed to meet family obligations.
4. Expiration of the Contract term or any extension of the Contract without completing the criteria for program completion as outlined under the section Contract of Completion

5. If the client's housing assistance is terminated.
6. By operation of law
7. By such other act as is deemed inconsistent with the FSS program

Participants who fail to meet their obligations under the above circumstances will be given the opportunity to attend a required meeting with the FSS Counselor or assigned HACT representative to resolve the problem. At this meeting, a review of the Contract of Participation, ITSP, Program Completion Agreement, and all related documentation will be conducted and amendments will be made as necessary, within HUD guidelines, to allow for changes in circumstances. Failure to contact the FSS Counselor to schedule this meeting within ten (10) business days of HACT's written request for a meeting or failure by the FSS Head of Household to attend this meeting without some type of correspondence to clarify the issue(s) leading to non-attendance, may lead to termination from the program.

Participants who remain out of compliance after this meeting will be subject to termination from the FSS program. Notification to the family will be made by letter stating:

1. The specific facts and reasons for termination
2. A statement informing the family of their rights to request an informal hearing and the date by which this request must be received (see Hearing Procedures below)
3. A statement informing the family that termination from the FSS program for the reasons stated therein will not result in termination of the family's housing assistance

Failure to request a hearing in writing by the deadline will result in closure of the family's FSS file and all rights to a hearing will be waived. All escrow money held on the family's behalf will be forfeited in accordance with HUD regulations. Housing assistance will not be terminated based on non-compliance with the FSS program.

Voluntary Termination:

Participants may also be terminated from the FSS program under the following circumstances:

- A. Mutual consent of both parties
- B. The family's withdrawal from the program

If the family withdraws from the FSS program with the mutual consent of HACT and the FSS Head of Household, then the family may rejoin the FSS program in the future with the following understanding:

1. The family signs a new Contract of Participation, Program Completion Agreement, and ITSP
2. The family is not eligible to receive funds accrued in escrow up to the point of their initial withdrawal from FSS
3. The family will be eligible to receive future deposits into escrow upon rejoining the FSS program

Hearing Procedures:

All requests for informal hearings must be received by HACT within ten (10) business days of the date of decision. If a hearing is requested by the FSS family, notification to the family regarding the date, time, and location of the informal hearing will be made by certified mail, return receipt requested, within ten (10) business days from the date the request was received.

Persons included in the informal hearing shall include, but not be limited to:

- The FSS Head of Household
- The FSS Counselor
- HACT staff members, other than FSS program staff, serving as the Hearing Committee

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, HACT may request documentation of the “good cause” prior to rescheduling the hearing.

If the family does not appear at the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact HACT within 24 hours of the scheduled hearing date, excluding weekends and holidays. HACT will reschedule the hearing only if the family can show “good cause” for failure to appear, or if it is needed as a reasonable accommodation for a person with a disability.

The Hearing Officer will issue a written decision to the family within ten (10) business days after the hearing. The decision made by the Hearing Committee will be final. HACT reserves the right to overturn the Hearing Committee's decision only in the event the decision is contrary to policy.

Reenrollment Policy

An FSS participant who had successfully completed the program with an escrow amount will not be eligible for reenrollment. Any person who participated previously in the FSS program at the PHA and was terminated for cause may not be eligible for future FSS program participation.

The PHA will allow the following circumstances for reenrollment:

- An FSS participant porting in from another jurisdiction
- Any participant whose contract was terminated due to his or her Contract of Participation expiring, where no goals were achieved, and no escrow was established, will be eligible for reenrollment after two years since the last COP expired
- Any participant who was terminated from the FSS program for program violations, but the decision was overturned at the informal hearing will be eligible for reenrollment into the FSS program.

D. Incentive Plans

As part of the FSS program, HACT offers incentives to encourage participation and enhance the participant's ability to achieve self-sufficiency. FSS Escrow Accounts are an effective incentive tool motivating clients to participate in the FSS program. In accordance with HUD regulations, HACT opens and maintains an interest-bearing account on behalf of each client during their participation in the FSS program as a financial incentive for program participation. The escrow entitlements may be used for home ownership, credit resolution, career development, or any goal as outlined in the participant's interim goals.

Escrow Account Deposits:

Escrow deposits are calculated on increases in earned income as they impact the family's Total Tenant Payment (TTP) at the time the Contract of Participation was executed. Escrow credit calculations will be made whenever HACT conducts an interim or annual reexamination during the Contract of Participation. HACT will credit escrow accounts monthly and calculate interest quarterly. At least annually, HACT will provide FSS families with an escrow statement reflecting beginning and ending balances, deposits, withdrawals, and interest accrued.

Interim Withdrawal Procedures:

Participants in good standing with the FSS program and HACT will be allowed to request money from their escrow accounts prior to the completion of their Contract. The early withdrawal of funds must be used for continuing growth and for reaching the goals articulated in the ITSP. All FSS families with an escrow balance are eligible to request a withdrawal.

The Head of Household must submit a budget in addition to a written request for an interim withdrawal. The request must include:

1. The amount of money requested
2. The amount of money the family will be investing
3. How the funds will be used
4. How this will facilitate their movement toward self-sufficiency
5. An assessment of their progress on their self-sufficiency goals
6. Alternative funding sources they have tried
7. Documentation of expenses

The FSS staff will discuss the appropriateness of the request during a regularly scheduled meeting. The FSS program reserves the right to request the family to attend a meeting for clarification of the withdrawal request before a determination is made and/or require additional documentation prior to making a decision.

The decision to release escrow will be made by consensus of the staff members and the decision will be binding. If the withdrawal request is denied, the FSS family will be given a written response outlining the decision.

Final Disbursement of Escrow:

Final disbursement of the FSS Escrow Account will be made to the FSS Head of Household when a written request is submitted, and the family has met the obligations as defined in the Contract of Participation.

Forfeiting of the Escrow Account:

Funds in the FSS Escrow Account will be forfeited if:

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1. The Contract of Participation, including any extension, expires and the obligations are unfulfilled
2. The FSS family loses their housing assistance
3. The FSS family is deemed to be out of compliance with the FSS program and is terminated, and/or
4. The FSS family voluntarily terminates their enrollment in the FSS program.

Additional Incentives:

Additional incentives include, but are not limited to, enhanced opportunities for education, training, and employment. FSS participants have access to financial counseling, credit repair, homeownership workshops, health fairs, and available resources about the home buying process. FSS participants also have a number of personal incentives for involvement including: structured goal planning, greater opportunity to increase their standard of living, an enhanced support system, increased self-esteem, etc.

HACT reserves the right to revise the plan when and if additional official incentives may become available.

VII. METHODS FOR IDENTIFICATION OF FAMILY SUPPORT NEEDS**A. Assessment and Referral**

Most inquiries from potential participants and referrals to the FSS program go through the FSS Counselor. Preliminary conversations convey program details and explain the program is designed to provide clients with tools that will allow them to become welfare free and self-sufficient. Individuals who feel they need more education and/or training before returning to work are not discouraged; however, the FSS Counselor emphasizes the belief that frequently the best training for returning to the workforce involves work itself. Workplace learning enables the client to internalize the skills necessary to hold down a job: showing up on time, showing up every day, learning to interact with co-workers, learning to follow instructions, and so forth.

The client is invited into the office for a program orientation. The client has the opportunity to ask questions and determine whether the goals and objectives of the program meet his/her needs. If the client is interested, the FSS Counselor sets an individual assessment interview appointment. The Individual Training and Service Plan is developed and executed at the time of this interview.

For clients who are not working when they join the FSS program, the assessment will focus on the immediate barriers to employment and longer-range career goals. For those with jobs, the assessment will address needs and resources related to job stability, retention, and career advancement. The assessment will identify the family's resources and needs in such areas as: work experience, job search and retention skills, education, training, childcare, and transportation and determine if the family is receiving welfare assistance. The assessment will also address such issues as physical and mental health, parenting, budgeting and household management, English language skills, coping skills, and other skills necessary to gain and sustain employment. Several key objectives will guide the assessment process covering the many issues faced during a participant's preparation for and entry into employment:

1. Determine whether the participant is ready to look for work, including whether the participant has the skills needed for the type of employment sought and whether additional training would enhance the participant's long-term employability
2. Determine which service needs the family can meet themselves and which will require outside assistance
3. Encourage participants to identify and build on the positive life skills, strengths, and capabilities they already possess
4. Establish priorities among identified needs

The assessment will provide the basis for developing the family's FSS ITSP. The FSS ITSP will outline steps towards long-term independence from public assistance, establish interim goal timeframes, identify potential barriers, and anticipate strategies for overcoming barriers. The FSS ITSP also outlines FSS program commitments to support the participant's efforts and delineates the roles and responsibilities of program staff in helping participants reach their goals. The FSS ITSP, like the assessment, will be reviewed periodically; staff and participants may choose to revise ITSPs as appropriate.

B. Contract of Completion

In order to successfully complete the FSS Contract of Participation and receive any money in the FSS Escrow Account, participants must meet the following criteria:

1. The Head of Household has obtained suitable full-time employment, as defined below, and maintained it for at least one year.

2. All members of the household have been independent of welfare for at least twelve (12) consecutive months. Welfare is defined as income assistance from Federal or state welfare programs, and includes only cash maintenance payments designed to meet a family's ongoing basic needs. It does not include food stamps, Social Security payments, Medicaid, or similar benefits.
3. All activities listed on the ITSP must be completed within the designated timeframes.
4. The household is in good standing with the HCV program.
5. Upon contract completion, FUP youth aging out will be provided a 30 day notice of reaching self-sufficiency and will be issued a notice of termination.

Full-time employment is defined as:

- For hourly or salaried employees, at least 32 hours per week
- For self-employment, net earnings of at least 32 hours per week at minimum wage
- Accommodations for disabled individuals—Requests for accommodation must be submitted in writing and supported by a written statement from the individual's medical provider at least 120 days prior to program completion. The statement will include a recommendation from the medical provider as to a specific number of hours the individual is able to work due to disability. Requests will be considered on a case-by-case basis.

Suitable employment is defined as follows:

- Employment with an established, legitimate business-or-
- Self-employment which is verifiable through signed Federal income tax returns
- Contracted or commission employment will be considered if it meets the hourly/income requirements, is verifiable, and is being declared for tax purposes
- Informal employment which does not meet the criteria listed above will not be considered (employment where income is not declared for tax purposes)
- Employment must be considered a lawful activity

Contract Extensions:

The initial contract term is five years. The contract may be extended for up to two additional years if the family is unable to achieve self-sufficiency in this time due to circumstances beyond their control such as:

- Serious illness in the immediate family
- Involuntary loss of employment
- Serious injury that interferes with employment opportunities—and/or
- Other circumstances beyond the control of the family and that are deemed as good cause by HACT

Extensions will not be granted for loss of employment due to lack of performance on the part of the FSS participant.

All requests for extensions must be submitted in writing prior to expiration of the Contract of Participation. The request letter should include the following components:

1. An explanation of why the goals were not completed
2. What goals still need to be completed
3. The timeframe in which the goals will be completed

Participants will be notified in writing of THA's decision within ten (10) business days and may request an informal hearing if they disagree with the decision (see Hearing Procedures below).

During the extension period, the family will continue to be eligible to receive deposits into the FSS Escrow Account. The FSS Head of Household will be required to continue abiding by the Contract of Participation, Program Completion Agreement, and ITSP, as well as keep in regular contact with the FSS Counselor during the extension.

VIII. FSS ACTIVITIES AND SUPPORT SERVICES

The primary goal of the HACT's approach to the FSS program is to help clients become welfare free, clarify their vocational goals, link and refer them to necessary services, and provide the ongoing support they need to maintain their focus and motivation.

Thus, the intake interview is the foundation of a client's participation in FSS. It is during this interview the Counselor lays the groundwork for developing a successful long-term relationship with the client. The objective is to build a relationship based upon respect for

the client, an assessment of the client's needs, appreciation of their strengths, and an understanding of any barriers to employment and services necessary to overcome them.

Following the initial assessment, the frequency and type of regular follow-up FSS participants receive will depend on the participant activities and needs. The FSS Counselor will be available to clients for phone consultations and in-person visits on a scheduled basis.

Individual client contact will also occur through frequent calls to monitor individual progress. In general, the FSS Counselor will contact those families who do not report in to get an update on the participant's current activities, discuss progress toward interim goals, and identify any areas where the participant may need assistance. The FSS Counselor will have more frequent contact with participants who request additional assistance and/or who are known to be having difficulties. When the monthly reports indicate a job loss, the FSS Counselor will make every effort to contact the client immediately either by phone or letter to schedule an in-person visit.

Although the FSS Counselor will be supportive and share some responsibility for coordinating and arranging services, ultimately the participant will be encouraged to assume responsibility for obtaining the services needed to implement their strategy for self-sufficiency. Staff will convey a consistent message that participants need to take control of, and assume responsibility for, their working lives. This acceptance of responsibility will be critical to the participant's success in the workplace.

The FSS Counselor will work as a team along with the participants to assist them as they work toward employment and self-sufficiency. The FSS Counselor provides individuals and families in-house services as well as referrals to additional services in the community as appropriate. The FSS Counselor will coordinate closely with resource providers to ensure participants making the transition to work are supported with comprehensive services.

A. Service Referrals

Following the development of the FSS ITSP, the FSS Counselor will begin assisting participants with identification of resources needed to begin implementing their plans for reaching self-sufficiency. Participants seeking further education are referred for additional academic assessment if needed; those who are still identifying their employment goals may be referred for more in-depth testing and career counseling. Depending on the participant's interests and prior education, referrals may be made to local providers of basic education (GED), vocational or technical education, English as a Second Language course, and/or academic training. Participants who are already looking for work or who are planning to begin a job search may be referred to programs sponsored by the Tampa Workforce Alliance. Participants may also receive referrals for supportive services such as: childcare and transportation assistance, personal and family counseling, and/or medical services.

To make effective use of the education, training, and support services available to FSS-eligible families, the FSS Counselor compiles, maintains, and updates a directory of local service providers. The FSS Counselor will make every effort to follow up with participants and service providers regarding the outcomes of referrals. Staff will make sure the participants were able to contact the provider, the needed services were available, and the participant is satisfied with the quality of service. Heavy reliance is placed on clients reporting if they are unable to access the referred services so, if needed, intervention may take place on their behalf.

B. In-House Services

The comprehensive assessment focuses on the skills and resources necessary to help participants obtain and keep employment. The FSS Counselor plays a primary role in facilitating referrals to outside services, monitoring progress on short and long-term goals, and providing support and encouragement.

In addition to the one-on-one contacts between the FSS Counselor and participants, the program offers opportunities for participants to meet each other, share experiences, and gain additional skills. When an FSS participant begins seeking work, the FSS Counselor provides assistance in job search and job listings. The FSS Counselor also provides the important support and encouragement job seekers need to stay motivated during a job search.

The transition from welfare to work usually includes spells of employment and unemployment; FSS participants are no exception, especially those who have limited skills and little or no work history. These participants may face greater barriers to retaining employment and jobs with low skill requirements may be less stable due to seasonal or repeated layoffs. The FSS Counselor attempts to minimize spells of unemployment by encouraging participants to begin searching for work immediately and by continually working with potential employers to develop new opportunities for FSS participants. They will also help participants target employment opportunities with the potential for long-term stability.

C. Coordination of Programs

The FSS program embraces the entire family structure with its supportive services offered to its residents. Eligible families are connected with appropriate support services and resources in their communities needed to move the family toward economic self-sufficiency.

Extensive resources are available to FSS program participants through public and private agencies. Resources for services such as: childcare, financial counseling, vocational training, GED preparation, and so forth are made available to FSS participants. The Program

Coordinating Committee has been developed and services are being implemented through these resources.

The following is a list of services currently available to eligible FSS participants. HACT continues to include resources from many places throughout the community which means resources and services are in a constant state of change. This list is not intended to be exhaustive but only serves as an overview.

- **Case Management:** Families participating in the FSS program will be in regular contact with the FSS Counselor to develop and carryout the ITSP. The Counselor will provide ongoing supervision of the participant's progress and act as an advocate to empower families toward self-sufficiency. In addition, the Counselor will facilitate and monitor other agency involvement and track participant progress through monthly phone calls and quarterly face-to-face reviews, which includes home visits.
- **Housing:** The FSS Counselor will be responsible in not only case management but also the recertification process. This will allow the counselor to monitor any increase in escrow for tracking purposes.
- **Escrow:** Deposits may be made into an escrow account on behalf of a FSS family. Amounts deposited will be calculated in accordance with Federal regulations for the FSS program.
- **Tampa Bay Workforce Alliance:** One Stop Center employment services
- **Department of Health and Social Service:** General assistance
- **CDC of Tampa, Inc.:** Employability skills
- **Hillsborough County Health Department:** Preventative healthcare
- **Precious Bundle Child Care:** Childcare services
- **DACCO:** Substance abuse screening/training
- **Center for Affordable Homeownership:** Basic banking and money management
- **THA – PPS:** Computer training
- **We Care Services:** Healthcare provider
- **Chase:** Financial literacy

- **Tampa Community Health Centers:** Medical Services
- **Superior Pharmacy:** Prescriptive Drugs Workshops
- **Tampa Police Department:** Background check and screening
- **Hillsborough Area Regional Transit:** Bus passes discount
- **Hillsborough Literacy Council:** Taskforce partner
- **Ramlogan's Driving School:** Driver's education
- **Hillsborough County Adult and Community:** GED adult basic literacy
- **Hillsborough County Adult Technical Education:** Plumbing, carpentry, A/C repair, welding, childcare, culinary arts
- **International School of Well Drilling:** Well drilling training placement assistance
- **Centre for Women:** Employability skills and life skills
- **Faith Home Health:** Home health companion care training
- **Gulf Marine:** Welding and Shipfitting
- **Sherwin William Paint Company:** Paint training
- **Head Start:** Early childhood education
- **Early Childhood Learning Program:** Early childhood education
- **Planned Parenthood:** Family planning
- **HARTline:** Transportation services
- **Hillsborough County Library System:** Library Services and Computer & Internet Usage
- **Black Business Investment:** Business Development and Mentoring
- **Cathedral of Faith:** Life Skills and Career Development

IX. MONITORING PROGRAM PERFORMANCE

The HACT staff and management are responsible for monitoring and assessing FSS program performance on a regular basis. A number of key indicators are tracked on a monthly, quarterly, and annual basis that includes the following:

- Total enrollment
- Number of clients enrolled in any given month
- Amount of escrow deposits in a current month
- Number of escrow deposits in a current month
- % of employed Heads of Household
- % of clients who obtain employment in a current month
- % of clients who are working on GED or in College
- Number of outside referrals made to service providers to support families' interim goals
- Number of in-house counseling sessions
- Number of clients who meet an interim goal in a given month and the kind of goal they reached

In addition to quantitative reports collected monthly, the HACT program management staff will prepare Monthly Narrative Reports that highlight special events and strategic developments. An expanded version of these reports will also be compiled on a semi-annual basis. Also anticipated is an annual recognition of all participants who graduated during THA's fiscal year.

Data regarding FSS enrollment and escrow is part of the SEMAP scoring for the department. This is also monitored monthly to ensure the FSS percentages will pass the FY SEMAP.

PROGRAM INTEGRITY ADDENDUM

[24 CFR 792.101 to 792.204, 982.54]

INTRODUCTION

The US Department of HUD conservatively estimates that 200 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement.

The PHA is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained.

The PHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This chapter outlines the PHA's policies for the prevention, detection and investigation of program abuse and fraud.

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstances will the PHA undertake an inquiry or an audit of a participating family arbitrarily. The PHA's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. The PHA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the PHA has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and, when indicators of possible abuse come to the PHA's attention, to investigate such claims. The PHA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

Referrals, Complaints, or Tips. The PHA will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

Internal File Review. A follow-up will be made if PHA staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, the PHA's knowledge of the family, or is discrepant with statements made by the family.

Verification of Documentation. A follow-up will be made if the PHA receives independent verification or documentation which conflicts with representations in the

family's file (such as public record information or credit bureau reports, reports from other agencies).

B. STEPS THE PHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

The PHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

Things You Should Know. This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify the PHA's expectations for cooperation and compliance.

Program Orientation Session. Mandatory orientation sessions will be conducted by the PHA staff for all prospective program participants, either prior to or upon issuance of a voucher. At the conclusion of all Program Orientation Sessions, the family representative will be required to sign a "Program Briefing Certificate" to confirm that all rules and pertinent regulations were explained to them.

Resident Counseling. The PHA will routinely provide participant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.

Review and explanation of Forms. Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

Use of Instructive Signs and Warnings. Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse

Participant Certification. All family representatives will be required to sign a "Participant Certification" form, as contained in HUD's Participant Integrity Program Manual.

C. STEPS THE PHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

The PHA Staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

Quality Control File Reviews. Prior to initial certification, and at the completion of all subsequent recertifications, 100 % the files will be reviewed.

Such reviews shall include, but are not limited to:

- * Assurance that verification of all income and deductions is present.
- * Changes in reported Social Security Numbers or dates of birth.
- * Authenticity of file documents.

- * Ratio between reported income and expenditures.
- * Review of signatures for consistency with previously signed file documents.
- * All forms are correctly dated and signed.

Observation. The PHA Staff (to include inspection personnel) will maintain high awareness of circumstances which 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.

Public Record Bulletins may be reviewed by Management and Staff.

State Wage Data Record Keepers. Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits

Credit Bureau Inquiries. Credit Bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:

- * At the time of final eligibility determination
- * When an allegation is received by the PHA wherein unreported income sources are disclosed.
- * When a participant's expenditures exceed his/her reported income, and no plausible explanation is given.

IRS Inquiries. Authorization forms will be signed to allow THA to verify all income reported to the IRS.

D. THE PHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The PHA staff will encourage all participating families to report suspected abuse to the Compliance Officer or management staff. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up.

The compliance officer or staff will not follow up on allegations which are vague or otherwise nonspecific. They will only review allegations which contain one or more independently verifiable facts.

File Review. An internal file review will be conducted to determine: If the subject of the allegation is a client of the PHA and, if so, to determine whether or not the information reported has been previously disclosed by the family.

It will then be determined if the PHA is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review. If at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the compliance officer will initiate an investigation to determine if the allegation is true or false.

E. OVERPAYMENTS TO OWNERS

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the PHA may terminate the Contract and arrange for restitution to the PHA and/or family as appropriate.

The PHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the PHA or the tenant, as applicable.

F. HOW THE PHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD

If the PHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file, or a person designated by the Executive Director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the PHA will secure the written authorization from the program participant for the release of information.

Credit Bureau Inquiries. In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

Verification of Credit. In cases where the financial activity conflicts with file data, a *Verification of Credit* form may be mailed to the creditor in order to determine the unreported income source.

Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.

Neighbors/Witnesses. Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the PHA's review.

Other Agencies. Investigators, case workers or representatives of other benefit agencies may be contacted.

Public Records. If relevant, the PHA will review public records kept in any jurisdictional courthouse. 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 and postal records.

Interviews with Head of Household or Family Members. The PHA will discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the appropriate PHA office. A high standard of courtesy and professionalism will be maintained by the PHA staff person who conducts such interviews. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE PHA

Documents and other evidence obtained by the PHA during the course of an investigation will be considered "work product" and will either be kept in the participant's file, or in a separate "work file." In either case, the participant's file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among PHA Staff unless they are involved in the process, or have information which may assist in the investigation.

H. CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the Executive Director or designee. It will then be determined whether a violation has occurred, a violation has not occurred, or if the facts are inconclusive.

I. EVALUATION OF THE FINDINGS

If it is determined that a program violation has occurred, the PHA will review the facts to determine:

The type of violation (procedural, non-compliance, fraud).

Whether the violation was intentional or unintentional.

What amount of money (if any) is owed by the family.

If the family is eligible for continued occupancy.

J. ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN DOCUMENTED

Once a program violation has been documented, the PHA will propose the most appropriate remedy based upon the type and severity of the violation.

1. Procedural Non-compliance. This category applies when the family "fails to" observe a procedure or requirement of the PHA, but does not misrepresent a material fact, and there

is no retroactive assistance payments owed by the family.

Examples of non-compliance violations are:

Failure to appear at a pre-scheduled appointment.

Failure to return verification in time period specified by the PHA.

(a) Warning Notice to the Family. In such cases a notice will be sent to the family which contains the following:

A description of the non-compliance and the procedure, policy or obligation which was violated.

The date by which the violation must be corrected, or the procedure complied with.

The action which will be taken by the PHA if the procedure or obligation is not complied with by the date specified by the PHA.

The consequences of repeated (similar) violations.

2. Procedural Non-compliance - Overpaid Assistance. When the family owes money to the PHA for failure to report changes in income or assets, the PHA 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 PHA.

A response period.

The right to disagree and to request an informal hearing with instructions for the request of such hearing.

(a) Participant Fails to Comply with PHA's Notice. If the Participant fails to comply with the PHA's notice, and a family obligation has been violated, the PHA will initiate termination of assistance.

(b) Participant Complies with PHA's Notice. When a family complies the PHA's notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was violated. The staff person will complete a Participant Counseling Report, give one copy to the family and retain a copy in the family's file.

3. Intentional Misrepresentations. When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the PHA, the PHA will evaluate whether or not: The participant had knowledge that his/her actions were wrong, and the participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certification, briefing certificate, Personal Declaration and Things You Should Know are adequate to establish knowledge of wrong-doing. The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- (a) An admission by the participant of the misrepresentation.
- (b) That the act was done repeatedly.
- (c) If a false name or Social Security Number was used.
- (d) If there were admissions to others of the illegal action or omission.
- (e) That the participant omitted material facts which were known to him/her (e.g., employment of self or other household member).
- (f) That the participant falsified, forged or altered documents.
- (g) That the participant uttered and certified to statements at a interim
- (re)determination which were later independently verified to be false.

4. Dispositions of Cases Involving Misrepresentations. In all cases of misrepresentations involving efforts to recover monies owed, the PHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

- (a) Criminal Prosecution: If the PHA has established criminal intent, and the case meets the criteria for prosecution, the PHA will:

Refer the case to the local State or District Attorney or Department of Law Enforcement, notify HUD's RIGI, and terminate rental assistance.

- (b) Administrative Remedies: The PHA will:

Terminate assistance and demand payment of restitution in full or execute an administrative repayment agreement in accordance with the PHA's Repayment Policy, or Terminate assistance and pursue restitution through civil litigation.

5. The Case Conference for Serious Violations and Misrepresentations. When the PHA has established that material misrepresentation(s) have occurred, a Case Conference will be scheduled with the family representative and the PHA staff person who is most knowledgeable about the circumstances of the case.

This conference will take place prior to any proposed action by the PHA. The

purpose of such conference is to review the information and evidence obtained by the PHA with the participant, and to provide the participant an opportunity to explain any document findings which conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by the PHA . The family will be given 5 days to furnish any mitigating evidence.

* A secondary purpose of the Participant Conference is to assist the PHA in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the PHA will consider:

* The duration of the violation and number of false statements.

* The family's ability to understand the rules.

* The family's willingness to cooperate, and to accept responsibility for his/her actions

* The amount of money involved.

* The family's past history

* Whether or not criminal intent has been established.

* The number of false statements.

6. Notification to Participant of Proposed Action. The PHA will notify the family of the proposed action no later than 10 days after the case conference by certified mail.