ADMINISTRATIVE PLAN FOR THE HOUSING CHOICE VOUCHER PROGRAM

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CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN

1.1 INTRODUCTION

The Housing Authority of the County of Salt Lake, dba Housing Connect (HC), is a Public Housing Authority (PHA) founded in 1970. For over 50 years, the agency has provided housing to low-income households in Salt Lake County through a wide variety of government funded rental assistance programs, such as the Housing Choice Voucher program and permanent supportive housing programs. HC is also a housing developer, building and operating affordable housing units in Salt Lake County.

Vision Statement: Housing Connect envisions a future where all residents are connected to a safe and affordable place to live.

Mission Statement: Connect people and communities to quality affordable housing opportunities while promoting self-sufficiency and neighborhood revitalization.

We are connectors:

- We connect people with affordable housing
- We connect tenants with support to become part of their community
- We connect landlords with tenants and reliable income

At Housing Connect, our professional staff use their deep knowledge, experience, and relationships with partner organizations to link people with affordable housing solutions. We also provide access to services including employment, health care, and education to ensure stable housing.

1.2 ORGANIZATION AND STRUCTURE OF HOUSING CONNECT

HC receives its funding for Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development (HUD). HC enters into an Annual Contributions Contract (ACC) with HUD to administer the program requirements on behalf of HUD. HC must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation. HC is a tax-exempt, non-profit municipal corporation. HC's funding comes primarily from rents it collects and subsidies from the federal government.

The officials of HC are known as commissioners or, collectively, as the Board of Commissioners. HC is governed by a seven-member Board nominated by the Salt Lake County Mayor and confirmed by the County Council. The commissioners serve five-year terms. HC's Board of Commissioners represents various sectors and areas of expertise within the community. The Board of Commissioners is responsible for establishing policies under which HC conducts business, ensuring that policies are followed by staff and ensuring HC is successful in its mission. Additionally, the Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

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

The Chief Executive Officer (CEO) is hired and appointed by the Board of Commissioners. The CEO is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the staff in order to manage the day-to-

day operations of HC to ensure compliance with federal and state laws and directives for the programs managed. In addition, the CEO's duties include budgeting and financial planning for the agency.

1.3 MISSION, VISION AND CORE VALUES

Mission: HC's mission is to connect people and communities to quality affordable housing opportunities while promoting self-sufficiency and neighborhood revitalization.

Vision: HC's vision is a future where all residents are connected to a secure and affordable place to live. Having a stable foundation of a place to call home is a conduit to helping individuals and families achieve their educational, health, and economic goals, which is a cornerstone for creating a vibrant community.

Core Values: Excellence, Integrity, Innovation, Humility, Accountability, Inclusion.

1.4 JURISDICTION

HC's area of operation includes the areas geographically defined as Salt Lake County and Summit County. HC administers rental subsidies within the boundaries of each of these counties.

1.5 COMMITMENT TO ETHICS AND SERVICE

As a public service agency, HC is committed to providing excellent service to HCV program participants, owners, and to the community. HC's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide safe, habitable housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human service needs.
- Promote fair housing and equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- 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.
- 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.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing HC's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and a high level of commitment to our employees and their development.

HC will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

1.6 OVERVIEW AND PURPOSE OF THE ADMINISTRATIVE PLAN

HC administers the Housing Choice Voucher (HCV) program in conformance with all applicable federal, state, and local regulatory requirements. The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements. This Administrative Plan is available for public review.

Key definitions may be found in GLOSSARY OF TERMS AND DEFINITIONS.

1.6.1 Updating and Revising the Plan

New HUD regulations or other required guidance will apply when issued. HC will update the Administrative Plan as needed to reflect these changes in regulations, HC operations, or when needed to ensure staff consistency in operation.

The original plan and any changes are approved by HC's Board of Commissioners. HC may make non-substantive changes and edits to the Administrative Plan to clarify policy language. The Administrative Plan is available for public review.

1.6.2 Applicable Regulations

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers

1.6.3 Regulatory and Statutory Waivers

During periods of declared states of emergency, as certified by the applicable government designee with authority in HC's jurisdiction, HC may adopt HUD published regulatory and/or statutory waivers to respond to the emergency. Where such waivers are adopted, HC will retain documentation to identify the Statute/Regulation, which is being waived, as well as the alternative requirement and period start and end dates for such waivers.

Where a waiver allows HC to adopt and implement changes to the Administrative Plan without formal board approval, such informally adopted policies will be formally adopted and implemented consistent with required timelines and fair housing and equal opportunity statutes and regulations. Finally, HC will follow applicable HUD tenant notification guidance regarding changes to policies, rules and/or special charges to tenants.

1.6.4 Insufficient Funding

In the event of a funding shortfall, HC may modify its policies in order to address HUD requirements and/or to improve HCV program finances. Accordingly, as part of an action plan to address an actual or projected funding shortfall, HC may temporarily or permanently waive or modify provisions of the Administrative Plan and/or take other actions as needed including, but not limited to, waiving or modifying voucher issuance, payment standard, rent increase and/or other policies and provisions.

1.7 PROGRAMS ADMINISTERED BY HOUSING CONNECT

The Administrative Plan is applicable to the operation of the HCV program, including Tenant-Based Voucher (TBV) and Project-Based Voucher (PBV) assistance. In addition, the Plan addresses policies for the following Special Purpose Voucher (SPV) programs:

- Mainstream Voucher Program
- Non-Elderly Disabled (NED) Vouchers
- Family Unification Program (FUP) Vouchers
- Foster Youth to Independence (FYI) Vouchers
- Veterans Affairs Supportive Housing (VASH) Vouchers

Policies related to HC's Family Self Sufficiency (FSS) Program are included in a separate document, the FSS Action Plan.

In addition to the programs listed above, HC also administers Continuum of Care (CoC)-funded and other supportive housing programs. Policies for these programs are detailed in a separate policy and procedure document.

1.8 MOVING TO WORK (MTW) DESIGNATION

HC entered into a Moving to Work (MTW) Amendment to the ACC with HUD on January 29, 2021. This MTW designation allows HC to design and test innovative methods of providing housing and delivering services to low-income households in an efficient and effective manner.

HC's participation in the expansion of the MTW demonstration is governed by the MTW Operations Notice for the Expansion of the Moving to Work Demonstration as it is issued as it may be amended in the future, or any successor notice issued by HUD. As a participant in the MTW demonstration, HC must operate in accordance with the express terms and conditions set forth in the MTW Operations Notice.

The term of the amendment is for 20 years from the beginning of HC's full fiscal year following execution by HC and HUD; or, until termination of the MTW amendment to the ACC, whichever is sooner.

As a participant in the MTW program, HC is exempted from specific provisions of the Housing Act of 1937 and its implementing regulations as specified in the MTW Operations Notice; however, HC remains subject to all other applicable requirements including, but not limited to, those in Title 24 of the Code of Federal Regulations and Title 42 of the U.S Code, Appropriations Act.

HC is part of the MTW "Cohort #2" which involves a six-year evaluation of alternative rent policies designed to increase resident self-sufficiency and reduce administrative burdens.

HC's MTW policies are referenced throughout this Plan, including which policies are applicable to specified program and household types. Additionally, general MTW policies and a summary of policies are provided in the MOVING TO WORK (MTW) PROGRAM AND POLICIES chapter.

1.9 HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT (HOTMA) OF 2016

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.

- **Sections 102 & 104:** The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the Federal Register on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule; this was reissued on February 2, 2024 to provide revisions and further guidance.
    - Subsequently, the implementation of certain provisions of sections 102 and/or 104 of HOTMA have been delayed by HUD, while others were implemented effective for recertifications effective on or after July 1, 2025, pursuant to Notice PIH 2024-38. HC has updated its policies throughout this Plan to incorporate HOTMA requirements according to applicable guidance that is available as of the date of this Plan.
    - Pursuant to HUD Notice PIH 2026-15, HUD will enforce compliance with the remaining provisions of Sections 102 and 104 of HOTMA that have not yet been implemented for transactions effective January 1, 2027 and later for all PHAs except for MTW PHAs. **As HC is an MTW PHA, this compliance date is not applicable to HC. HUD will establish a separate compliance date for MTW PHAs following completion of necessary systems modifications.**
    - Provisions of HOTMA for which implementation has been delayed by HUD may be referenced throughout this Plan with a note to indicate that the provision has been delayed and is not able to be implemented until further instruction from HUD.
- **Sections 101, 105, 106, and 112:** On May 7, 2024 HUD published a Final Rule in the Federal Register implementing further changes under HOTMA, specific to Sections 101, 105, 106, and 112 of HOTMA and in reference to the October 8, 2020 proposed rule. The effective date of the rule is June 6, 2024; however, PIH Notice 2024-19 details the effective dates of certain provisions under this rule. In addition, PIH Notice 2024-34 provides guidance on updated policy provisions related to HCV program payment standards. Technical amendments to the rule were published December 8, 2025.
    - As of the date of this Plan HC is awaiting further implementation guidance from HUD regarding these provisions, including certain PBV provisions that, pursuant to PIH Notice 2024-19, have been delayed indefinitely. HC will update the Plan accordingly as additional guidance becomes available.

HC has updated its policies throughout this Plan to incorporate HOTMA requirements according to applicable guidance that is available as of the date of this Plan. As of the date of this Plan, HC is awaiting further guidance from HUD regarding the implementation of certain provisions and related requirements, as well as information that will be used by HC to determine its internal compliance date of various provisions.

HC will update this Plan and its policies as needed to reflect any subsequent guidance released by HUD pertaining to HOTMA, the Final Rule, and other related regulatory requirements. HC will comply with the HOTMA Final Rule and all requirements, with the exception of policies that have been waived by HC pursuant to an authorized and approved MTW Activity.

CHAPTER 2: MOVING TO WORK (MTW) PROGRAM AND POLICIES

2.1 OVERVIEW

As a participant in the MTW program, HC is exempted from specific provisions of the Housing Act of 1937 and its implementing regulations as specified in the MTW Operations Notice; however, HC remains subject to all other applicable requirements including, but not limited to, those in Title 24 of the Code of Federal Regulations and Title 42 of the U.S. Code, Appropriations Acts.

HC is part of the MTW "Cohort #2" which involves a six-year evaluation of alternative rent policies designed to increase resident self-sufficiency and reduce administrative burdens. Under this activity, HC will implement a Stepped Rent Policy applicable to HCV and Public Housing program families who are randomly selected to participate in the MTW alternative rent evaluation initiative and assigned to the "Treatment" group.

2.2 MTW STEPPED RENT POLICY

As part of the MTW Cohort #2 Rent Reform study, Housing Connect will implement a stepped rent model for qualified HCV households. The rent model will increase the family's rent payment/TTP on a fixed schedule in both frequency and amount. The fixed schedule/stepped rent model will be disaggregated from family income allowing a family to keep more of their increased income therefore giving incentives to working families and providing opportunities to increase their self-sufficiency.

In partnership with HUD Housing Connect will study the impacts of this stepped rent model for six years beginning 2023 through 2029. Stepped Rent policies will apply to randomly selected program participants; herein referred to as the Treatment group; and conversely, generally cannot apply MTW Stepped Rent policies to other randomly selected participants, herein referred to as the Control group.

Other MTW policies will apply to the Treatment and Control groups as well as those excluded from the Stepped Rent Policy; these MTW policies are outlined in each applicable chapter.

2.2.1 MTW Treatment, Control, and Excluded Groups, and Applicability to Non-MTW Programs

Outlined below are the definitions of the participants who make up each of the aforementioned groups. This Plan and the Chart of MTW Policies below will identify the policies and related group for which the policy is applicable. Where there is no policy distinction, the policy applies to all groups.

1. **MTW Treatment Group:** Non-elderly, non-disabled households who were randomly selected to have their rent calculated using HC's required Stepped Rent policy. This includes randomly selected existing participants as well as randomly selected new admissions during the initial enrollment period.

   If a household is assigned to the stepped rent rules group but then subsequently becomes disabled (meets HUD definition of disabled) the PHA can switch the household to the standard Housing Choice Voucher program regulations with no Stepped Rent MTW waivers applied.

2. **MTW Control Group**: Non-elderly, non-disabled households who were randomly selected to have their rent calculated in accordance with standard Housing Choice Voucher program regulations with no Stepped Rent MTW waivers applied.
3. **MTW Excluded Group**: The following households are in the excluded group of the Stepped Rent Policy:
    a. Head, Co-Head, Spouse 56 years of age or older
    b. Head, Co-Head, Spouse is disabled.
        i. Household must meet the HUD definition of "disabled household" to be excluded and may self-certify that they have applied for Social Security (disability) for the head, co-head or spouse.
    c. Households in the homeownership program
    d. Current FSS participants
    e. HCV 0 HAP households
    f. Mixed eligibility families
    g. Households receiving Earned Income Disregard (EID) at RA
    h. Households living in developments that underwent a PBRA RAD conversion (not excluded if PBV conversion)
    i. Households in phase-in period under RAD protections
    j. Port-outs (No longer subject to the stepped rent policy but may still be part of the study data collection)
    k. Port-ins (Administered)
    l. Households who are not yet indicated as disabled according to HUD definition, but:
        i. Have been approved to receive SSI/SSDI but have not yet received first payment
        ii. Have a pending SSI/SSDI application in (applied recently and waiting to learn of approval status)
4. **Non-MTW and Special Purpose Vouchers (SPVs):** the following households are not included in the MTW Stepped Rent policy; however, may have certain MTW policies applied to them as approved by HC and/or HUD.
    a. VASH
    b. Mod Rehab (Certificate)
    c. Enhanced Voucher
    d. Shelter Plus Care
    e. Family Unification Program
    f. Foster Youth

g. Emergency Housing Voucher

h. Mainstream

i. Tenant Protection Voucher (still under Enhanced Voucher requirements)

Where special purpose vouchers are concerned, HC will not apply MTW policies to the extent that such policies are not in conflict with the applicable NOFA. In the event of a conflict, the NOFA will govern. HC will apply waivers for VASH in order to apply the MTW policies or general waivers which are applicable.

See the Chart of MTW Policies below for more information about which MTW policies are applicable to each of the groups mentioned above.

2.3 CHART OF MTW POLICIES

The following table reflects the MTW policies contained in HC's Administrative Plan including the applicable waiver and respective effective date for each policy initiative and modification.

Waiver	Title / Description	Chapter / Section	Approved Date	Applicable Programs
Tenant Rent Policies				
1.d.	Stepped Rent	• Total Tenant Payment (TTP): MTW Stepped Rent Treatment Group Households • Determining Income at Regular Recertifications • Interim Increases • Applying Payment Standards at Stepped Rent Increases • Changes in Family Voucher Size • Applying Utility Allowances at Stepped Rent Increases	11/9/2022	MTW Stepped Rent Treatment Group only
1.j.	Alternative Utility Allowance	• Utility Allowance Schedule	11/9/2022	All households
1.n.	Elimination of Utility Reimbursements	• Utility Reimbursement	2/27/2026	All households (except VASH)
			Pending approval from HUD	VASH households
1.w.	Alternative Income Inclusions / Exclusions	• General Calculation of Asset Income	12/10/2024	All households (except VASH)
			8/7/2025	VASH
Payment Standards and Rent Reasonableness				
2.b.	Payment Standards – Fair Market Rents	• Establishing Payment Standards	Pending approval from HUD	All MTW households

Waiver	Title / Description	Chapter / Section	Approved Date	Applicable Programs
2.b.i. (Safe Harbor)	Payment Standard for Reasonable Accommodations	• Reasonable Accommodation and Payment Standards	9/7/2023	All households (except VASH)
			3/6/2024	VASH
2.d.	Rent Reasonableness-Third Party Requirement	• HC-Owned Units • Rent for HC-Owned Units	11/9/2022	All households
Reexaminations				
3.b.	Alternative Reexamination	• Frequency of Regular Reexaminations • Applying Payment Standards at Interim Reexamination	11/9/2022	MTW – Stepped Rent Treatment group and Elderly/Disabled households
			6/21/2023	VASH (elderly and disabled households)
3.b.ii (Safe Harbor)	Alternative Reexamination	• Interim Decreases	11/9/2022	MTW – Stepped Rent Treatment Group
3.d.i (Safe Harbor)	Self-Certification of Assets	• Verification of Assets	11/9/2022	All households
Landlord Leasing Incentives				
4.a. & 4.c.	Landlord Leasing Incentives	• Landlord Leasing Incentives	10/26/2023	MTW – all groups
Inspections Standards				
5.a.	Pre-Qualifying Unit Inspections	• Initial Inspection	11/9/2022	All households
5.c.	Third-Party Requirement	• Inspecting HC-Owned Units	11/9/2022	All households
Project-Based Voucher Program Flexibilities				
9.a.	Increase PBV Program Cap	• PBV Program Cap	11/9/2022	PBV Program
9.b.	Increase PBV Project Cap	• PBV Project Cap	11/9/2022	PBV Program
9.c.	Elimination of PBV Selection Process for PHA-owned Projects Without Improvement,	• Non-Competitive Project Selection	11/9/2022	PBV Program

Waiver	Title / Description	Chapter / Section	Approved Date	Applicable Programs
	Development, or Replacement			
9.d.	Alternative PBV Selection Process	• Alternative PBV Selection Process	2/27/2026	PBV Program
9.g.	Increase PBV Rent to Owner	• Determining Rent To Owner	Pending approval from HUD	PBV Program
Family Self-Sufficiency Program with MTW Flexibility				
10.d.	FSS: Modify or Eliminate Contract of Participation	• See FSS Action Plan	11/9/2022	All FSS households
10.e.	FSS: Policies for Address Increases in Family Income	• See FSS Action Plan	11/9/2022	All FSS households
Agency-Specific Waivers				
Agency-Specific Waiver	Alternative Verification Hierarchy	• Alternative Verification Requirements • Alternative Verification Hierarchy	11/9/2022	All households
Agency-Specific Waiver	Acceptance of Local Certificate of Occupancy for Initial PBV Inspections	• Initial Inspections	2/27/2026	All PBV households
Local, Non-Traditional Activities				
17.c.	Housing Development Programs	• Housing Development Programs	11/9/2022	All households

Additionally, see the HARDSHIP POLICIES chapter and MTW Hardships section for more information about applicable hardship policies for MTW households.

2.4 LOCAL NON-TRADITIONAL ACTIVITIES

Pursuant to the MTW Operations Notice, MTW Funding can be utilized per statute and regulation on the eligible activities listed at sections 9(d)(1), 9(e)(1), and 8(o) of the 1937 Act. Any authorized use of these funds outside of the allowable uses listed in the 1937 Act constitutes a local, non-traditional activity. The agency is authorized to implement the local, non-traditional activities listed below to provide a rental subsidy to a third-party entity to provide housing and supportive services to eligible low-income participants, and to contribute MTW Funding to the development of affordable housing. Local non-traditional activities are subject to the following requirements:

- Families served through the activities described below must be at or below 80% of Area Median Income.

- Implemented activities must meet one of the three MTW statutory objectives of increasing the efficiency of federal expenditures, incentivizing self-sufficiency of participating families, and increasing housing choice for low-income families.
- The use of MTW Funding must be consistent with the requirements of 2 CFR200 and other basic requirements for the use of federal assistance.
- The agency must determine the eligibility of families in accordance with 24 CFR5.609 and with section3(b)(2) of the Act.
- Local, non-traditional activities must comply with PIH Notice 2011-45 or any successor notice/and or guidance.

2.4.1 Housing Development Programs

MTW Policy

MTW Waiver: 17.c. – Housing Development Programs

Approval Date: FY 2022

Applicable To: All households

Description: Under this activity, HC may utilize MTW funding to acquire, renovate and/or build affordable housing units that are not public housing for low-income families including housing that meets HUD requirements for MTW "local, non-traditional housing" as defined in HUD PIH Notice 2011-45 or successor notices.

HC may utilize this activity to provide gap financing (grants or loans) to affordable housing developments including, but not limited to, PBV developments, Low Income Housing Tax Credit developments and/or other eligible development activities, subject to approval by the HC Board of Commissioners. HC may expend MTW funds including Public Housing Operating or Capital Funds, Housing Assistance Payments and/or HCV Administrative Fee reserves on such activities provided that HC shall not expend more than 10% of its Housing Assistance Payments budget on local, non-traditional activities including this housing development activity.

In implementing this activity, HC shall: (1) ensure that families assisted meet the HUD definition of "low-income"; (2) comply with PIH Notice 2011-45 as applicable; (3) comply with Section 30 of the US Housing Act of 1937; and, (4) Competitively bid any MTW funding awarded through this activity to a third-party provider. HC has provided summary information on one potential project for funding under this activity; however other projects may also be considered subject to approval of the HC Board of Commissioners.

CHAPTER 3: FAIR HOUSING AND EQUAL OPPORTUNITY

3.1 OVERVIEW

This chapter explains the laws and HUD regulations requiring HC to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policies and processes. The responsibility for further nondiscrimination pertains to all areas of HC's HCV operations.

3.2 NON-DISCRIMINATION

HC treats all applicants and clients equally, providing the same quality of service, regardless of household characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and/or disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. HC will comply with all applicable federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act (ADA) of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act (VAWA)
- Utah's Fair Housing Act, UTAH CODE ANN. §57-21-5, was passed in 1989 and amended to add source of income discrimination in 1993.

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

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

3.2.1 Protected Classes

HC will not discriminate on the basis of race, color, sex, religion, familial status, age, disability, national origin, gender identity, marital status or sexual orientation (called "protected classes").

In addition, HC will not discriminate on the basis of source of income.

HC will not use any of the household characteristics or background described above to:

- Deny to any household the opportunity to apply for housing, nor deny any qualified applicant the opportunity to participate in the housing choice voucher program;

- Provide housing that is different from that provided to others;
- Subject anyone to segregation or disparate treatment;
- Subject anyone to sexual harassment;
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program;
- Treat a person differently in determining eligibility or other requirements for admission;
- Steer an applicant or client toward or away from a particular area based on any of these factors;
- Deny anyone access to the same level of services;
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program;
- Discriminate in the provision of residential real estate transactions;
- Discriminate against someone because they are related to or associated with a member of a protected class; or
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

3.2.2 Providing Information to Families and Owners

[24 CFR 982.301]

HC takes steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, HC provides information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods.

The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

3.3 DISCRIMINATION COMPLAINTS

Applicants or households that believe they have been subject to unlawful discrimination may notify HC. HC will attempt to remedy discrimination complaints made against HC and will investigate all allegations of discrimination.

HC will advise the family that they may file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

3.3.1 VAWA Complaint Processing

[Notice FHEO 2023-01]

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more

than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

Applicants or tenant families who wish to file a VAWA complaint against HC may notify HC either orally or in writing. HC will advise the family of their right to file a VAWA complaint with HUD's FHEO. HC will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

HC will attempt to remedy complaints made against HC and will investigate all allegations of discrimination.

HC will keep a record of all related complaints, investigations, notices, and corrective actions.

3.4 POLICIES RELATED TO PERSONS WITH DISABILITIES

There are two different definitions for *person with a disability* used in the HCV program.

1. The definition used to qualify a family for a *disabled deduction,* either as a disabled household or as a dependent for an other adult with a disability. See Definition of a Person with a Disability – Disabled Deduction. Note that this definition is more limited than the definition used for reasonable accommodations.
2. The definition used to determine eligibility for a *reasonable accommodation* (see definition in the Reasonable Accommodation section).

When verifying a disability, HC will follow its policies on Verification of Disability . All information related to a person's disability will be treated in accordance with the privacy policies in this Plan. In addition to the general requirements that govern all verification efforts, additional verification requirements for verifying disability will be followed.

3.4.1 Definition of a Person with a Disability – Disabled Deduction

The term *person with disabilities* means a person who has any of the following types of conditions.

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of blindness as defined by 42 U.S.C 416(i)(1)), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C.15002(8)), which defines developmental disability in functional terms as follows:
    - ***General.*** The term *developmental disability* means a severe, chronic disability of an individual that:
        - Is attributable to a mental or physical impairment or combination of mental and physical impairments;
        - Is manifested before the individual attains age 22;
        - Is likely to continue indefinitely;
        - Results in substantial functional limitations in 3 or more of the following areas of major life activity:
            - Self-care,
            - Receptive and expressive language,
            - Learning,
            - Mobility,
            - Self-direction,
            - Capacity for independent living,
            - Economic self-sufficiency; and
        - Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.
    - ***Infants and Young Children*.** An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three or more of the following criteria if the individual, without services and supports, has a high probability of meeting those criteria later in life: self-care, receptive and expressive language, learning, mobility, self-direction.

This definition is also used for the dependent deduction, when an adult family member (who is not the head, co-head or spouse) is a person with disabilities.

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

For purposes of qualifying for low-income housing, this definition does not include a person whose disability is based solely on any drug or alcohol dependence.

3.4.2 Denial or Termination of Assistance – Families with Disabled Household Members

HC's decision to deny or terminate the assistance to a household that includes a person with disabilities is subject to consideration of reasonable accommodation.

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

When a household's assistance is terminated, the notice of termination will inform them of HC's informal hearing process and their right to request a hearing and reasonable accommodation.

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

3.5 REASONABLE ACCOMMODATION

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an undue financial and administrative burden for HC or result in a fundamental alteration in the nature of the program or service offered. A *fundamental alteration* is a modification that alters the essential nature of a provider's operations.

3.5.1 Definition of a Person with a Disability – Reasonable Accommodation

The definition of a *person with a disability* used to qualify a family for a reasonable accommodation is as follows:

- A *person with a disability*, as defined under federal civil rights laws, is any person who:
    - Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
    - Has a record of such impairment, or
    - Is regarded as having such impairment.
- The phrase *physical or mental impairment* includes:
    - Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
    - Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus (HIV) infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

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

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

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

The definition of a person with disabilities does not include:

- Current, illegal use of or addiction to a controlled substance.
- Individuals who are alcoholics or drug abusers and:
    - Whose current use of alcohol or drugs prevents them from participating in the program or activity in question; or
    - Whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

3.5.2 Types of Reasonable Accommodations

When requested, HC will make reasonable accommodations to modify normal procedures to accommodate the needs of a person with disabilities. Examples include but are not limited to:

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

3.5.3 Request for an Accommodation

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that HC treat the information as a request for a Reasonable Accommodation, even if no formal request is made.

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

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

HC will encourage the family to make its request in writing using a Reasonable Accommodation Request & Consent form. However, HC will consider the accommodation any time the family indicates that accommodation is needed, whether or not a formal written request is submitted.

3.5.4 Approval or Denial of a Requested Accommodation

Requests for accommodations will be assessed on a case-by-case basis, considering factors such as the overall size of HC's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

After a request for an accommodation is presented, HC will respond, in writing, generally within 10 business days.

Approval

HC will approve a request for an accommodation if the following three conditions are met:

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

Once a reasonable accommodation is approved, for continued approval, the individual/family may be required to submit a new, written request (subject to PHA verification) at each regular reexamination or as needed as determined by HC.

Denial

If HC denies a request for an accommodation because there is no relationship found between the disability and the requested accommodation, the notice will inform the household of the right to appeal HC's decision through an informal hearing or review (if applicable).

If HC denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of HC's operations), HC may review with the household alternative accommodations which could effectively address the household's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If HC believes that the household has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, HC will notify the household, in writing, of its determination in a timely fashion. The notice will inform the household of the right to appeal HC's decision through an informal review or informal hearing. See INFORMAL REVIEWS AND HEARINGS.

3.6 PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require HC to ensure that persons with disabilities related to hearing and vision have reasonable access to HCs programs and services [24 CFR 8.6]. HC shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

To meet the needs of persons with hearing impairments, TDD 801-284-4407 communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with Housing Connect staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication may include:

- Sign language interpretation;
- Having material explained orally by staff; or
- Having a third-party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

3.7 PHYSICAL ACCESSIBILITY

HC complies with the applicable requirements pertaining to physical accessibility, including the following:

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

HC's policies concerning physical accessibility are readily available to applicants and households. They can be found in the following documents:

- This policy, the Administrative Plan, which describes the key policies that govern HC's responsibilities with regard to physical accessibility;
- PIH Notice 2010-26, which summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funding housing programs; and
- HC's Annual Plans, which provides information about self-evaluation, needs assessment, and transition plans.

As part of the briefing packet, HC will include notice to families that if the family includes a person with disabilities, HC will provide a current list of available accessible units known to HC and will assist the family

in locating an available accessible unit, and if necessary, other assistance in locating an available accessible dwelling unit [24 CFR 982.301(b)(12)].

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

3.8 IMPROVING ACCESS FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

[OAG Memo 7/14/25, FHEO Memo 9/19/2025, and Executive Order 14224]

In March 2025, Executive Order 14224 revoked Executive Order 13166, which had directed agencies to enhance access to federal programs for persons with limited English proficiency (LEP) and required tailored guidance for recipients of federal funding under Title VI of the Civil Rights Act of 1964. Executive Order 14224 also declared English as the official language of the United States.

In response, on July 14, 2025, the Office of the Attorney General (OAG) issued a memo on the implementation of EO 14224, which rescinded all prior guidance to federal agencies regarding Title VI of the Civil Right Act's prohibition against national origin discrimination affecting LEP persons. The memo presents a legal analysis that finds language is not an immutable characteristic entitled to Title VI protection and decoupling LEP persons from national origin discrimination. HUD FHEO has stated they will prioritize enforcement actions involving intentional discrimination where language has been used as a proxy for national origin or a vehicle for intentional discrimination [FHEO Memo 9/19/25].

The OAG memo states that, where allowed by law, agencies should determine which of their programs and policies might serve the public at large better if operated exclusively in English. The OAG memo also states that agencies are not required to amend, remove, or otherwise stop production of all multilingual documents, products, or other services prepared or offered. Further, many states and localities have laws regarding language services to be provided to non-English-speaking persons that may apply to the HC.

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program.

HC will ensure that affirmative steps are taken to communicate with people who need services or information in a language other than English.

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Administrative Plan, LEP persons are HCV applicants and clients, and parents and household members of applicants and clients. In order to determine the level of access needed by LEP persons, HC will balance the following four factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the HCV program;
- The frequency with which LEP persons come into contact with the program;
- The nature and importance of the program, activity, or service provided by the program to people's lives; and

- The resources available to HC and costs.

Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on HC.

More information on HC's language access policies can be found in the agency's Language Access Plan (FY2022-FY2023).

3.9 VIOLENCE AGAINST WOMEN ACT PROTECTIONS

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the Housing Choice Voucher (HCV) or Public Housing program. VAWA protections are not limited to women, but cover victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking regardless of 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.

Note: Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

3.9.1 Definitions as Used in the VAWA

Definitions used under Violence Against Women Act (VAWA):

- **Domestic Violence:** Includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the uses or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
    - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim;
    - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner;
    - A person with whom the victim shares a child in common; or
    - A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction.
- **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and the existence of such a relationship is determined based on the following factors: length of the relationship; type of relationship; and frequency of interaction between the persons involved in the relationship.

- **Sexual Assault:** Any non-consensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
- **Stalking:** Engaging in a course of conduct directed at a specific person causing a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.
- **Affiliated Individual:** The term affiliated individual means, with respect to a person: A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- **Bifurcate:** means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- **Economic Abuse**: behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
    - Restrict a person's access to money, assets, credit, or financial information;
    - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or
    - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty.
- **Technological Abuse:** means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, stalking or human trafficking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
    - Internet enabled devices;
    - Online spaces and platforms;
    - Computers;
    - Mobile devices;
    - Cameras and imaging programs;
    - Apps;
    - Location tracking devices;
    - Communication technologies;
    - Any other emerging technologies.

3.9.2 Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault, Stalking and Human Trafficking

Applicants who otherwise qualify for assistance or admission will not be denied admission on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. VAWA does not limit HC's authority to deny assistance to an individual or household that is not otherwise qualified or eligible for assistance.

3.9.3 Prohibition against Termination of Assistance Related to Domestic Violence, Dating Violence, Sexual Assault, Stalking and Human Trafficking

Criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking or human trafficking engaged in by a member of a tenant's family or any guest or other person under the tenant's control will not be the basis for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's household is the victim or threatened victim of that domestic violence, dating violence, sexual assault, stalking or human trafficking.

Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking or human trafficking will not be construed either as serious or repeated violations of the Lease by the victim of such violence or as good cause for terminating the assistance of the victim of such violence. Additionally, property damage and noise complaints due to abuse cannot be used as the basis for eviction.

HC may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to HC, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking or human trafficking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit.

Notwithstanding the foregoing, HC may exercise its authority 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 household 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.

HC may exercise its discretion to bifurcate a lease in order to evict, remove or terminate assistance to tenants or lawful occupants who perpetrate such violence against victims or affiliated individuals.

Further, HC retains its authority to terminate the tenancy of any tenant if HC concludes that there is an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance. VAWA does not limit HC's authority to deny or terminate assistance to an individual or family that is not otherwise qualified or eligible for assistance.

HC may terminate assistance or evict a tenant for any violation of the lease not premised on the kinds of violence described above, as long as HC refrains from subjecting a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking to a more demanding standard than applied to other tenants facing Lease termination. VAWA does not limit HC's authority to deny or terminate assistance to an individual or family that is not otherwise qualified or eligible for assistance.

Notwithstanding the protections provided to tenants under VAWA, HC will:

- Comply with court orders that address the rights of access to or control of property, including civil protection orders issued to protect victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking; and
- Comply with court orders that address the distribution or possession of property among members of a household.

In the event HC evicts, removes or terminates assistance to an individual by bifurcating the lease, HC will refrain from penalizing the victim of such criminal activity who is a tenant or lawful occupant. HC will also provide any remaining family members an opportunity to establish eligibility for continued occupancy, if the individual evicted as a result of the bifurcation of the lease was the sole tenant eligible for housing assistance. If the remaining tenant is unable to establish eligibility, HC will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

This policy permits HC to provide emergency transfers to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the tenant expressly requests the transfer and the tenant reasonably believes that he/she is threatened with imminent harm from further violence if the tenant remains in the unit. In the case of a tenant who is the victim of sexual assault, an emergency transfer may be provided if the individual reasonably believes there is a threat of imminent harm from further violence if they remain in their unit or if the individual reasonably believes there is a threat of imminent harm from further violence if they remain in their unit or if the sexual assault occurred on the premises during the 90 day period preceding the request for a transfer.

HC will maintain the confidentiality of the tenant's new location in the event the tenant receives an emergency transfer related to VAWA protections.

See APPENDIX A: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING.

3.9.4 VAWA Self-Petitioners

HC will review non-citizen applicant or tenant requests for admission or continued occupancy as a result of being a self-petitioner under the Violence against Women Reauthorization Act of 2013.

A VAWA self-petitioner is someone who claims to be a victim of "battery or extreme cruelty," which includes domestic violence, dating violence, sexual assault, stalking or human trafficking perpetrated by their spouse or parent, and who indicates that they have "satisfactory immigration status; however, HC has not yet verified that his/her satisfactory immigration status. Satisfactory immigration status means an immigration status which does not make the individual ineligible for financial assistance. A VAWA self-petitioner may submit an I-360 VAWA Self Petition, an I-130 Family-Based VISA Petition or a USCIS Form 1-797 to demonstrate a claim of satisfactory immigration status. When a VAWA self-petitioner uses the Family Based VISA petition to satisfy immigration status, upon verification of the Family Based VISA petition, HC will require the petitioner to submit evidence of battery or extreme cruelty.

HC may provide assistance to a non-citizen, applicant VAWA self-petitioner while HC verifies his/her eligible immigration status. Additionally, HC may provide continued assistance to the non-citizen participant VAWA petitioner during the time that HC verifies his/her eligible immigration status. Housing assistance and all other VAWA protections will be granted to the VAWA self-petitioner throughout the verification process until a final determination of lawful permanent residency can be made.

If HC later determines that the VAWA self-petitioner does not have eligible immigration status, HC will notify the individual and take action to terminate assistance.

3.9.5 Confidentiality Requirements for VAWA

HC will not disclose or release or enter into any shared database any personally identifying information or individual information collected in connection with VAWA protections requested or denied except to the extent that the disclosure is:

- Requested or consented to by the individual in writing;
- Required for use in an eviction proceeding; or
- Otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, HC will make reasonable attempts to provide notice to victims affected by the disclosure of information and will take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

At the time the applicant is denied, HC may share the following:

- Non-personally identifying data in the aggregate regarding services to their tenants and non-personally identifying demographic information in order to comply with Federal or State reporting, evaluation, or data collection requirements;
- Court-generated information and law enforcement-generated information containing insecure, governmental registries for protection order enforcement purposes; and
- Law enforcement-generated and prosecution-generated information necessary for law enforcement and prosecution purposes.

3.9.6 Notification to Applicants, Households, and Owners Regarding Protections under VAWA

HC will provide applicants and tenants in assisted housing with HUD's VAWA Notice of Occupancy Rights and VAWA Certification Form:

- When an applicant is denied;
- At admission to Public Housing or the Housing Choice Voucher program;
- With any notification of eviction or notification of termination of assistance.

HC will also provide owners with the VAWA Notice of Occupancy Rights and VAWA Certification Form.

3.9.7 Victim Documentation

HC will require that an applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault, stalking or human trafficking provide documentation of such claim, including:

- Demonstrating the connection between the abuse and the unfavorable history; and

- Naming the perpetrator of the abuse if it is safe to provide the name and if it is known to the victim.

When a family is facing termination of assistance because of the actions of a tenant, household member, guest, or other person under the tenant's control and a client or affiliated individual of the tenant's household claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault, stalking or human trafficking HC will require the individual to submit documentation affirming that claim.

Tenants may provide one of the following to demonstrate that they should receive protections under VAWA:

- A completed HUD-approved VAWA certification form that documents an incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, stalking or human trafficking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which the tenant/applicant must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, social worker, legal assistance provider, pastoral counselor, medical professional or a mental health professional (collectively, "professional") from whom the applicant/tenant sought assistance in addressing domestic violence, dating violence, sexual assault, stalking or human trafficking, or the effects of abuse, and with the professional selected by the applicant/tenant attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, stalking or human trafficking are grounds for protection.
- Individuals or families claiming that they are a victim of domestic violence, dating violence, stalking or human trafficking may obtain a VAWA Certification Form from designated HC locations.

3.9.8 Timeframe for Submitting Documentation

If an applicant for, or tenant of, HC housing represents to HC that they are entitled to protections under VAWA, HC may request, in writing, that the applicant submit a form of documentation as described above. The tenant must submit the required certification and supporting documentation to HC within fourteen (14) business days after HC has requested the documentation from the applicant/tenant. The 14-day deadline may be extended at HC's discretion. If the individual does not provide the required certification and supporting documentation within fourteen (14) business days of HC's request, or within the approved extension period, HC may proceed with denial or termination of assistance.

If HC can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant's tenancy is not terminated, HC will bypass the standard process and proceed with the immediate termination of the family's assistance.

3.9.9 Perpetrator Documentation

If the perpetrator of the abuse is a member of the applicant/tenant household, the applicant/head of household must provide additional documentation consisting of one of the following:

- A signed statement requesting that the perpetrator be removed from the application or household and certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit; or
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence services provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury that to his or her belief, the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

Perpetrator documentation must be submitted to HC within the same timeframe as victim documentation.

3.9.10 Terminating Tenancy of a Domestic Violence Offender

This section does not provide protection for perpetrators of domestic violence, dating violence, sexual assault, stalking or human trafficking. HC may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against household members or others without terminating assistance to, or otherwise penalizing, the victim of such violence who is also a tenant or lawful occupant. This authority supersedes any local, state, or other federal law to the contrary. However, if HC chooses to exercise this authority, HC will follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance.

When the actions of a client or other household member result in a decision to terminate the household's assistance and another household member claims that the actions involve criminal acts of physical violence against household members or others, HC will request that the victim submit the required certification and supporting documentation in accordance with the stated timeframe. If the certification and supporting documentation are submitted within the required timeframe, or any approved extension period, HC will terminate the offender's assistance. If the victim does not provide the certification and supporting documentation, as required, HC will deny relief for protection under VAWA and proceed with termination of the household's assistance.

If HC can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the client's tenancy is not terminated, HC will bypass the standard process and proceed with the immediate termination of the household's assistance.

3.9.11 Transfers and Portability under VAWA

HC may provide a voucher and allow a household to move in violation of its lease if the household has complied with all other obligations of the voucher program and has moved out of the assisted unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, stalking or human trafficking and who reasonably believes that he or she is imminently threatened by harm from further violence if he or she remains in the assisted unit.

See APPENDIX A: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING for more information.

3.9.12 Response to Conflicting Certification

In cases where HC receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, HC may determine which is the true victim by requiring third-party documentation from each member as described in this Plan. Third-party documentation to substantiate the occurrence of a VAWA-related offense must be submitted within 30 calendar days. HC shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim or to address the distribution or possession of property among the household.

3.9.13 Remedies Available to VAWA Victims

Notwithstanding any federal, state, or local law to the contrary, HC may bifurcate (divide in two) a lease, or remove a household member from a lease without regard to whether the household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against household members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is 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, or local law for termination of assistance or leases under the relevant Public Housing, Section 8 HCV, and Section 8 Project-Based programs. Tenants who remain in the household after a lease bifurcation, who have not already established eligibility for housing assistance will be given 30 days from the date of the bifurcation of the lease in order to establish eligibility for housing assistance or to find alternative housing.

3.9.14 VAWA Record Retention

HC will retain a record of all VAWA emergency transfer requests and outcomes for a period not less than three years. HC will follow HUD reporting requirements regarding VAWA emergency transfer requests and outcomes.

CHAPTER 4: APPLICATION, WAITING LIST, & TENANT SELECTION

4.1 OVERVIEW

When a family wishes to receive assistance under the HCV program, the family must submit an application that provides HC with the information needed to determine the family's eligibility. When HCV assistance becomes available, HC will select families from the waiting list in accordance with HUD requirements and HC policies as stated in the administrative plan and approved annual plans.

HC is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that HC affirmatively further fair housing goals in the administration of the program. Adherence to the selection policies described in this chapter ensures that HC will be in compliance with all relevant fair housing requirements.

This chapter describes HUD and HC policies for taking applications, managing the waiting list and selecting families for HCV assistance.

4.2 APPLYING FOR ASSISTANCE

[HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

HC uses a Centralized Application and Waiting List process in partnership with Salt Lake City Housing Authority. When the waiting list is open, families may submit applications using HC's online portal or may obtain application forms from HC's office. Families may also request applications by telephone, email, or by mail. Only one application will be accepted for each Head of Household.

The Centralized Section 8 HCV Waiting List affords HC and its clients the following benefits:

- Ease of application process for applicant who may apply at the office of any Housing Authority participating in Centralized Waiting List option or online at: https://www.affordablehousing.com/UtahCWL.
- Elimination of the procedural hardship on families and administrative burden to the Housing Authority of opening and closing of the Section 8 HCV Waiting List.
- Increase of housing opportunities for families who now have the option of placement at a number of locations throughout the State through the submission of a single Preliminary Application.

Completed applications must be submitted to HC as instructed on the application. Applications must be completed in order to be accepted by HC for processing. If an application is incomplete, where contact information is provided, HC will notify the family of the additional information required in order to be accepted for processing. The application will not be assigned a date and time of receipt until it is returned complete.

4.2.1 Accessibility of the Application Process

[24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

HC will take steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard HC application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). HC will make reasonable accommodations to meet the needs of individuals with disabilities.

4.3 PLACEMENT ON THE WAITING LIST

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

When the waiting list is continuously open, applicants will be placed on the waiting list according to the claimed preference and date and time their completed pre-application is received by HC. When the waiting list is open for a finite period of time, HC will notify applicants of the method for submitting applications and ordering applications on the waiting list.

Placement on the waiting list does not indicate that the family is eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list, in accordance with the requirements in the ELIGIBILITY chapter of this Plan. Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by HC.

4.4 ORGANIZATION OF THE WAITING LIST

[24 CFR 982.204 and 205]

The HCV waiting list will be organized in such a manner to allow HC to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan. HC will maintain a single waiting list for the HCV program vouchers.

The waiting list will contain the following information for each applicant listed:

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

4.5 CLOSING AND REOPENING OF THE WAITING LIST

4.5.1 Closing the Waiting List

[24 CFR 982.206]

HC, in agreement with Salt Lake City Housing Authority, may close the Centralized Waiting List when they determine that the estimated waiting period for housing assistance on the list reaches an unmanageable number.

Where HC has particular preferences or funding criteria that require a specific category of family, HC may elect to continue to accept applications from these applicants while closing the Waiting List to others.

4.5.2 Reopening the Waiting List

HC will announce the reopening of the waiting list at least 30 calendar days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

HC will give public notice by publishing the relevant information in suitable media outlets to be determined at the time of waiting list opening. The selected outlets may include newspapers of general circulation, minority media and other suitable media outlets. The notice will specify where, when and how applications are to be received and will comply with fair housing requirements.

4.6 FAMILY OUTREACH

[HCV GB, pp. 4-2 to 4-4]

HC will monitor the characteristics of the population being served and the characteristics of the population as a whole in HC's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved. HC will ensure that outreach activities are affirmatively furthering fair housing and are in compliance with the Fair Housing Act.

4.7 REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While an applicant is on the waiting list they must immediately inform HC of changes in contact information, including changes to current residence, mailing address, phone number and/or family composition.

Changes must be submitted online or in writing. A family may update its Preliminary Application for Section 8 HCV Assistance online at https://www.affordablehousing.com/UtahCWL or at the office of any PHA participating in the Centralized Waiting List Application process regardless of where the original Preliminary Application was submitted.

Failure to report changes may affect an applicant's placement on the waiting list(s) and could result in removal of the applicant from the waiting list. Changes will not be accepted verbally or over the phone.

4.7.1 Family Break-Up or Split Households While on the Waiting List

[24 CFR 982.315; Notice PIH 2017-08]

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date, if the waiting list is open.

In the absence of a judicial decision, or an agreement among the original family members, HC has the discretion to determine which members of the family will retain the original application date.

In making its determination, HC will take into consideration the following factors:

- The interest of any minor children, including custody arrangements;
- The interest of any ill, elderly, or disabled family members;
- The interest of any family member who is the victim of domestic violence, dating violence, sexual assault, stalking or human trafficking including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse;

- Any possible risks to family members as a result of criminal activity; and
- The recommendations of social service professionals.

4.8 UPDATING THE WAITING LIST

[24 CFR 982.204]

HC will review the Centralized Waiting List on a regular basis to determine if an update and purge are necessary. If an update is needed, HC will notify the families, at the time of the update, of the method and time frames to be used to update the Centralized Waiting List. The family's response must be submitted in the time frame and format required by HC.

Eligible applicants who respond timely and completely will be maintained on the Centralized Waiting List. Applicants who do not respond timely and completely to any update request will be withdrawn (or purged) from the waiting list(s) without further notice.

- If a notice is returned by the post office, with no forwarding address, the applicant will be removed from the Centralized Waiting List (including all HC program waiting lists) without further notice.
- If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. If the family does not respond within the required time frame, the family will be removed from the Centralized Waiting List (including all HC program waiting lists) without further notice.
- If a family is removed from the Centralized Waiting List for failure to respond, HC may reinstate the family if it is determined that the lack of response was due to HC error, or to circumstances beyond the family's control.

4.9 REMOVAL FROM THE WAITING LIST

HC will remove a family from the waiting list under the following circumstances:

- The applicant requests removal of their name from the waiting list;
- HC determines the family is not eligible for assistance;
- The applicant fails to respond to a written request to supply information to HC within an applicable time parameter;
- The applicant fails to attend a scheduled appointment at HC (HC may grant a second appointment upon request);
- The applicant receives a Housing Choice Voucher; or
- The applicant fails to attend two scheduled briefing sessions.

If HC outreaches to an applicant on a specific waiting list for a specific program opportunity and the applicant fails to respond to the outreach then HC will remove the applicant from that waiting list only. The applicant may remain on other HC waiting lists that they may be on (e.g. PBV, RAD, and/or public housing lists).

If a family is removed from the Centralized Waiting List because HC has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate

address provided on the initial application. The notice will state the reasons the family was removed from the Centralized Waiting List and will inform the family how to request an informal review regarding HC's decision.

See HC policies on Informal Reviews – Applicants for applicants who are removed from the waiting list.

4.9.1 Removal from PHA-Specific Waiting List(s)

Certain situations and/or eligibility determinations may result in removal from one, some, or all of the Waiting Lists contained within the Centralized Waiting List. The chart below outlines the outcomes for each situation:

	Situation	Outcome	Detail
1.	Mandatory Ineligibility for Assistance	Removal from Centralized Waiting List **for All PHAs**	• If the applicant is deemed ineligible for a reason which is mandatory then the name shall be removed from the Waiting List for all PHAs. • Mandatory grounds for all PHAs are as listed in the HUD-Required Denials section of this Administrative Plan.
2.	Mandatory Ineligibility for Assistance due to Income Limits	Removal from Centralized Waiting List **Dependent on Location for Income Limit Determination**	• When the applicant family's gross annual income exceeds the applicable income limit for eligibility for program assistance then they shall be denied participation in the HCV program. • If the family is denied participation in the HCV program because its income exceeds the applicable income limit then the applicant family's name will be removed from the Centralized Section 8 HCV Waiting List for the PHA making the determination and all other PHA's in the area with income limits at or below the level of the PHA making the determination. • The family's name shall remain on the list for other participating PHAs in areas with income limits above that of the PHA making the denial. • PHA's which have adopted specific policies to admit a low-income family that meets additional eligibility criteria specified in the PHA Administrative Plan which could impact their particular PHA income limits will notify the Waiting List vendor to make certain a different level should not be on file for the particular PHA in relation to denials under this section.
3.	Applicant Family Found to be Ineligible for Assistance	Removal from the Centralized Waiting List **for a**	• If an applicant family is found to be ineligible based on a PHA-specific policy, they shall be

	Situation	Outcome	Detail
	Based upon PHA-specific Policy	**Particular PHA Only**	removed from the Centralized Waiting List for that individual PHA only. • See HC-Required Denials and Other Possible Reasons for Denial section of this Administrative Plan for HC-specific reasons for denial. • If the applicant family is denied by HC wishes to receive assistance from HC in the future then they will need to re-apply and submit a new pre-application to HC. • If the family could be eligible under another participating PHA's policies, the applicant family will remain on the other non-HC waiting list(s).
4.	No Response to PHA	Removal From Centralized Waiting List **for a Particular PHA Only**	• If the family does not respond to a letter sent by a participating PHA to attend an eligibility determination appointment or to otherwise respond to the PHA, the PHA who requested the response may remove the family's name from the Centralized Section 8 HCV Waiting List for their particular PHA only. • The manner for the removal and any applicable appeal procedure shall be governed by the Administrative Plan for the PHA making the removal. • The family's name will not be removed by HC from the entire Centralized Section 8 HCV Waiting List.

4.9.2 Jurisdiction Regarding Certain Waiting List Decisions

When a family expresses a problem with a decision made by a PHA involved in the Centralized Section 8 HCV Waiting List, that family shall be referred to the PHA who made the determination in question. This includes when a family is removed from the Centralized Waiting List for failure to reply to the PHA.

When a family expresses a problem with a decision made by HC, that family shall be instructed to send a written request for reinstatement along with supporting documentation to HC, Centralized Waiting List Supervisor at: 3595 South Main Street, Salt Lake City, Utah 84115.

4.10 HCV FUNDING SOURCES

4.10.1 Special Admissions

[24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing). In these cases, HC may admit such families whether or not they are on the Centralized Waiting List. If they are on the Centralized Waiting List, HC may admit such

families without considering the family's position on the waiting list. These families are considered non-waiting list selections. HC will maintain records showing that such families were admitted with special program funding.

4.10.2 Targeted Funding

[24 CFR 982.204(e)]

When HUD awards special funding for certain family types, families who qualify are placed on the waiting list. When a specific type of funding becomes available, the Centralized Waiting List is searched for the first available family meeting the targeted funding criteria. HC administers the following types of targeted funding programs:

- Mainstream Voucher program vouchers
- Non-Elderly Disabled (NED) vouchers
- Family Unification Program (FUP) vouchers
- Foster Youth to Independence (FYI) vouchers
- Veterans Affairs Supportive Housing (HUD-VASH) vouchers

4.10.3 Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided below.

4.11 LOCAL PREFERENCES

[24 CFR 982.207; HCV p. 4-16]

4.11.1 General Requirements

HC may establish limited local preferences through HC Board approval. These limited local preferences are targeted for specifically named households and are based on HC and community priorities or HUD targeted funding. HC may define a specific number of HCVs that will be allocated to each local preference. The number of housing opportunities and eligibility and admissions criteria may vary from preference to preference.

Where applicants applied to HC when different local preferences were in effect, HC will honor their existing (when they applied) local preference in selecting applicants for six months after the Administrative Plan, in which the preferences were removed or revised, has been approved by the Board. Thereafter, HC will select applicants using the new preferences and selection policies.

Where a limited local preference includes an annual allocation of vouchers, HC will issue vouchers to families meeting that preference until the annual allocation has been met. When a participant with a local preference voucher leaves the program, if HC has already met the annual allocation for that preference, HC will not reissue a voucher to a family meeting that preference.

HC will issue all available vouchers first to the annual allocation of local preference families per HC's selection criteria. Where there are no families on the waiting list who qualify for any of HC's preferences, HC will select the next family on the Centralized Waiting List based on date and time of application. Alternatively, HC may open the Centralized Waiting List to people to whom the preference applies. In these

cases, HC will follow its waiting list policies for Closing and Reopening of the Waiting List. Additionally, where HC has particular preferences or funding criteria that require a specific category of family, HC may elect to continue to accept applications from these applicants while closing the Waiting List to others.

Within a specific preference group, applicants will be selected using date and time of application. Applicants who qualify for multiple preferences will be selected for the first preference for which they qualify.

See policies on Order of Selection for order of selection among families with preferences and families with no preferences. All preferences and selections from the waiting list are subject to the availability of vouchers.

4.11.2 HC Local Preferences

HC has adopted the following local preferences for the Tenant-Based Voucher (TBV) program:

1. **Reasonable Accommodation & Accessibility:** a preference will be given to existing HC residents or participants who currently reside in units assisted by HC that do not meet their accessibility needs and need a transfer and/or a tenant-based voucher to locate a unit to accommodate a disability under a request for reasonable accommodation.
2. **Relocation:** a preference will be given to existing HC residents or participants who reside in HC-assisted and/or HC-owned units and are required to move under the Uniform Relocation Act (URA) due to use, repurpose or a demolition/disposition or other related activity.
3. **Domestic Violence / VAWA:** a preference will be given to existing HC residents or participants to who are seeking to transfer from any covered housing program operated by HC (including Public Housing, Project-Based, Tenant-Based, etc.) for displacement due to domestic violence, dating violence, sexual assault, stalking or human trafficking, as defined by VAWA.
4. **Victims of Hate Crimes:** to verify qualification for this preference, HC will require certification by a law enforcement agency or other reliable information that the applicant has been the victim of a hate crime.
5. **Displaced Due to Disaster:** HC's Board may invoke a preference for families displaced or at imminent risk of being displaced by a gubernational or federally declared disaster under terms and for a duration chosen by the Board when such preference is invoked, or any family that has been terminated from its HCV program due to insufficient program funding.
6. **FUP Youth:** a preference will be given to participants in HC's FUP Youth program whose assistance is expiring and will have a lack of adequate housing as a result of their termination from the program, or other similar category. Qualifying participants must first place their name on the Centralized Waiting List to qualify for this preference. If the waiting list is closed, the participant may request for HC to add their name to the waiting list to be able to access this preference category. FUP Youth includes FYI participants.
7. **Moving On Initiative:** a preference will be given for up to 5 vouchers per calendar year to families in the Permanent Supportive Housing (PSH) Program, who are moving on from supportive services.

8. **Homeless:** HC will provide a preference for up to 25 vouchers issued per calendar year to individuals and families referred to HC through the Coordinated Entry System. HC will notify the Coordinated Entry system partner of voucher availability.

9. **Project-Based Voucher (PBV) and Rental Assistance Demonstration (RAD) Choice Mobility:** HC PBV participants in good standing who have leased a unit for at least 1 year under HC's PBV program (including units converted to Section 8 PBV assistance under the RAD or other conversion programs), are eligible to voluntarily relinquish their project-based subsidy and will be given a preference on the waiting list to receive a tenant-based voucher, when available, to move with continued assistance.

10. **Loss of Federally Funded Rental Assistance Due to Program Termination:** HC will provide a local preference to applicants who are currently assisted in a federally funded rental assistance program administered by HC and whose assistance is being involuntarily terminated due to the lack of, or termination of, program funding. HC will also provide a preference for any qualifying family that experiences a loss or gap in assistance as a result of the lack of continued program funding. To qualify for the preference, the following criteria must be met:

    a. The household is currently (or was formerly) receiving rental assistance through a federally funded voucher program;

    b. The voucher is/was administered by HC; and

    c. The assistance is ending due to the termination of federal funding, and not due to any action or ineligibility on the part of the household.

    Upon approval from HUD, HC will be permitted to place qualifying families on its HCV waiting list without collecting individual applications from each family. Otherwise, HC will collect application materials from each family prior to placing them on and selecting them from the HCV waiting list.

    In the event that HC does not have sufficient vouchers to serve all families meeting the criteria above immediately upon termination of their assistance, HC shall place families on its HCV waiting list. Families will be ordered within this preference group based on their initial program admission date, with the earliest dates first.

    If any special voucher type families transitioning to the HCV program qualify for the Mainstream program and HC has Mainstream vouchers available, HC may opt to prioritize transitioning those families to the Mainstream program rather than its regular HCV program.

    Special voucher type families who transition to the HCV or Mainstream programs will not be re-screened for program eligibility and are not subject to income targeting requirements.

See the Preferences section of the PROJECT BASED VOUCHER (PBV) ASSISTANCE chapter for more information about the applicable preferences that apply to the PBV program.

4.12 INCOME TARGETING

[24 CFR 982.201(b)(2)]

HC will ensure that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during HC's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher.

HC will monitor progress in meeting the income targeting requirements throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

4.13 ORDER OF SELECTION

Families will be selected from the waiting list based on the targeted funding or local preference(s) for which they qualify. Within each targeted funding or preference and priority category listed below, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by HC.

HC has adopted the following hierarchy of preferences and will select families from the waiting list as follows when voucher funding is available.

1. **Priority #1 Applicants – Existing HC Residents/Participants and Emergency Referrals**
    a. Reasonable Accommodation & Accessibility
    b. Relocation
    c. Domestic Violence / VAWA
    d. Victims of Hate Crimes
    e. Displaced Due to Disaster
2. **Priority #2 Applicants – Limited Preferences**
    a. FUP Youth (limited to the number of FUP Youth reaching the end of their program eligibility period)
    b. Moving On Initiative (up to 5 vouchers issued per year)
    c. Homeless (up to 25 vouchers issued per year)
3. **Priority #3 Applicants – PBV Participants Seeking Tenant-Based Assistance**
    a. Project-Based Voucher (PBV) and Rental Assistance Demonstration (RAD) Choice Mobility
4. **Applicants with No Preference**

Preference applicants that qualify for any of the Priority #1 categories listed above will have first priority over all other preference applicants when vouchers are available. If there are no Priority #1 preference applicants then available vouchers may be offered to Priority #2 preference applicants. If there are no Priority #2 preference applicants (or the applicable limited number of vouchers have been allocated to these categories), then vouchers may be offered to Priority #3 preference applicants.

Once all preference applicants have been selected then vouchers may be offered to non-preference households, if vouchers are available.

4.14 NOTIFICATION OF SELECTION

HC will notify the family by mail when it is selected from the waiting list. If a notification letter is returned to HC with no forwarding address, the family will be removed from the waiting list without further notice.

If an applicant fails to respond, in the manner and time frame requested by HC, the applicant may be withdrawn from the waiting list(s). When a family is withdrawn from the waiting list for failure to respond, no informal review will be offered. Such failures to act on the part of the applicant prevent HC from making an eligibility determination; therefore, no informal review is required.

CHAPTER 5: ELIGIBILITY

5.1 OVERVIEW

Every individual and family admitted to the HCV program must meet all program eligibility requirements. This includes any individual approved to join a family after the family has been admitted to the program. Families must provide any information needed by HC to confirm eligibility and determine the level of the family's assistance.

5.2 QUALIFYING FOR ADMISSION

HC will consider the following when determining eligibility and suitability for the HCV program:

The applicant family must:

- Qualify as a family as defined by HUD and HC;
- Have income at or below specified income limits;
- Qualify on the basis of citizenship or the eligible immigrant status of family members;
- Disclose and provide documentation of Social Security number information for all household members as required;
- Consent to HC's collection and use of family information as provided for in HC-provided consent forms;
- Not currently be receiving a duplicative subsidy; and
- Qualify for assistance according to all other eligibility criteria described in this Plan.

And, upon implementation of HOTMA:

Note: the following two bullets are only applicable upon full implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to full implementation, the following restrictions do not apply.

- Not own real property that is suitable for occupancy by the family as a residence, as described in Asset Restrictions; and
- Not have assets in excess of the HUD-established asset limit, as described in Asset Restrictions;

HC will determine that the current or past behavior of household members does not include activities that are prohibited by HC.

An applicant's misrepresentation of information, including but not limited to those related to eligibility, preference for admission, housing history, assets, allowances, household composition, criminal history or rent, will result in rejection.

If a family is deemed ineligible or unsuitable for admission, the family will be removed from the waiting list.

5.3 DEFINITIONS

5.3.1 Family

[24 CFR 5.403; 24 CFR 5.100; and FR Notice 2/14/23]

Applicants must qualify as a *Family* as defined in 24 CFR part 5.403. Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be:
  - An elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
  - An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act and is homeless at age 16 or older; or
- A group of persons residing together, and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - An elderly family;
  - A near-elderly family;
  - A disabled family;
  - A displaced family; and
  - The remaining member of a tenant family.
- A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the household at the time of application and must update this information if the family's composition changes.

5.3.2 Household

[24 CFR 5.403; FR Notice 02/03/12; Notice PIH 2014-20; and FR Notice 2/14/23]

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

5.3.3 Head of Household

[24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head.

The family may designate any qualified family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

5.3.4 Spouse, Co-Head and Other Adult

A family may have a spouse or co-head, but not both.

Spouse means the marriage partner of the head of household. A marriage partner includes the partner in a *common law* marriage as defined in state law. The term *spouse* does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *co-head* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head. Minors who are emancipated under state law may be designated as a co-head.

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

5.3.5 Interdependent Relationship or Domestic Partnership

To claim an interdependent relationship or domestic partnership, individuals must demonstrate and certify that each individual's income and other resources will be available to meet the needs of the family and that the family otherwise comprises a "housekeeping unit," meaning the individuals share expenses, household chores, household shopping responsibilities, and other common household activities. An interdependent relationship/domestic partnership may exist regardless of actual or perceived sexual orientation, gender identity, or marital status.

An interdependent relationship or domestic partnership is defined as a committed relationship between two adults, in which the partners:

- Maintain a common residence, and intend to continue to do so (or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle);
- Are at least 18 years of age and mentally competent to consent to contract;
- Share responsibility for a significant measure of each other's financial obligations;
- Are not the domestic partner of anyone else;
- Are willing to certify, if required by the agency, that they understand that willful falsification of any documentation required to establish that an individual is in a domestic partnership may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification.

5.3.6 Dependents and Minors

[24 CFR 5.603]

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

A *dependent* is a family member who is:

- Either under 18 years of age; or
- A person of any age who is a person with a disability; or
- A full-time student.

The following persons can never be dependents:

- The head of household;
- Spouse;
- Co-head;
- Foster children;
- Foster adults; and
- Live-in aides.

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family if the dependent lives with the applicant or client family 50 percent (at least 183 days/year) or more of the time. When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the admission or reexamination will be able to claim the dependents.

When more than one applicant or tenant (regardless of program) is claiming the same dependents as family members, the family with primary physical custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family will be allowed to claim the dependents, HC will make the determination based on available documents such as court orders and IRS income tax returns showing which family has claimed the child for income tax purposes, school records, and/or other credible documentation.

HC may make an exception to the SUBSIDY STANDARDS policies set forth in this plan and allow two assisted households space for the same dependent children where there is joint physical and legal custody; however, HC will only allow one household to claim the dependent deduction. Exceptions to the Subsidy Standards policies for these instances will be reviewed on a case-by-case basis.

5.3.7 Other Adult

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

5.3.8 Full-Time Student

[24 CFR 5.603; HCV GB, p. 5-29]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

5.3.9 Elderly Persons

[24 CFR 5.100 and 5.403, FR Notice 02/03/12]

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

5.3.10 Near-Elderly Persons

[24 CFR 5.100 and 5.403, FR Notice 02/03/12]

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

5.3.11 Elderly Family

[24 CFR 5.100 and 5.403, FR Notice 02/03/12]

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families may qualify for special deductions from income.

5.3.12 Persons with Disability and Disabled Family

[24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities: There are two different definitions for disabled persons used in the HCV program. One definition is used to qualify a family for the disabled household deduction and the other is used in determining eligibility for a reasonable accommodation. See Definition of a Person with a Disability – Disabled Deduction and Definition of a Person with a Disability – Reasonable Accommodation for the applicable definitions.

Disabled Family: A disabled family is one in which the head, spouse, or co-head is a person with disabilities.

5.3.13 Guests

[24 CFR 5.100]

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent. A guest may remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative days during any 12-month period if permission is given in writing by the Landlord and HC.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure that is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

5.3.14 Foster Children and Foster Adults

[24 CFR 5.603]

A *foster child* is a member of the household who meets the definition of a *foster child* under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a *foster adult* under state law. In general, a foster adult is a person who is 18 years of age or older, is unable

to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of space standards according to the INSPECTIONS chapter of this Plan.

Foster children and foster adults who are living with an applicant or assisted family are considered household members, but not family members. Foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13]. See policies on Earned Income of Minors, Live-in Aides, and Foster Children/Adults.

5.3.15 Live-in Aide

Live-in aide means a person who resides with one or more elderly persons or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

HC will approve a live-in aide if needed as a reasonable accommodation, to make the program accessible to and usable by the family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family. See verification requirements for Live-in Aide.

HC will apply the same screening criteria used for determining initial and continued eligibility/suitability for applicants and tenants when determining approval/disapproval of a particular person as a live-in aide. These criteria include, but are not limited to, disapproval of admission if the person [24 CFR 982.316(b)]:

- Committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- Is subject to a lifetime registration requirement under a State Sex offender registration program;
- Committed drug-related criminal activity or violent criminal activity; or
- Currently owes rent or other amounts to HC or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

5.3.16 Veteran

A veteran is a person who served in the active military (Army, Navy, Air Force, Marines or Coast Guard, Reservists and/or National Guard) and who was discharged or released from such service under conditions other than dishonorable. HC may request discharge documentation to verify honorable discharge.

5.4 INCOME ELIGIBILITY

5.4.1 Income Limits

[24 CFR 5.603(b)]

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

Definitions of the Income Limits:

- *Low-income family*. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
- *Very low-income family*. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
- *Extremely low-income family*. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

If a family does not meet the income limits for the program, their admission must be denied; see Income Limits for Eligibility.

5.4.2 Income Limits for Eligibility

[24 CFR 982.201 and Notice PIH 2023-27]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

In order to be income eligible, an applicant family must be one of the following:

- An extremely low-income or very low-income family.
- A low-income family that has been "continuously assisted" under the 1937 Housing Act (see Continuously Assisted below).
- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173.
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing.

For VASH households, see Income Eligibility for VASH households section of the Special Purpose Vouchers chapter.

5.4.3 Continuously Assisted

HC will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by HC or if there is a break in assistance under any 1937 Housing Act program for a period of less than 30 days from the date of the screening appointment with HC. This policy assumes that the break in assistance is not due to adverse termination and that the applicant has left the prior program in good standing.

5.4.4 Income Limits for Targeting

[24 CFR 982.201]

At least 75 percent of the families admitted to HC's program during a HC fiscal year must be extremely low-income families.

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

5.5 ASSET RESTRICTIONS

[24 CFR 5.618]

Note: the following section is only applicable upon full implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to full implementation, the following restrictions noted in this section do not apply.

Upon implementation of the HOTMA Final Rule, subsidy assistance must not be provided if upon admission or reexamination of family income:

1. The family's net assets (as defined in 24 CFR 5.603 and the GLOSSARY OF TERMS AND DEFINITIONS) exceed the HUD-published asset limitation amount (adjusted annually by HUD); or
2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property that is suitable for occupancy by the family as a residence.

   A property will be considered suitable for occupancy unless the family demonstrates that the property:

   - Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation);
   - Is not sufficient for the size of the family;
   - Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by HC);
   - Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or

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

This real property restriction does not apply to:

- Any property for which the family is receiving assistance under 24 CFR 982.620 or under the Homeownership Option in 24 CFR Part 982;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking, or human trafficking as defined in 24 CFR 5, Subpart L; or
- Any family that is offering such property for sale.

5.5.1 Denial of Assistance due to Asset Restrictions – New Admission Households

HC must deny households admission who do not meet the criteria listed above, in accordance with Denial of Assistance policies. There are no exceptions for households at admission, other than the exceptions listed above.

5.5.2 Termination of Assistance – Recertifying Households

For recertifying households, HC may delay termination of assistance for up to six months if the family is over the asset threshold at the time of their regular recertification, and the family will be given the opportunity to come into compliance with the asset threshold during that time. Otherwise, the household must be terminated in accordance with the policies in TERMINATION OF ASSISTANCE AND TENANCY.

5.6 CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

[24 CFR 5, Subpart E]

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

5.6.1 Declaration of Citizenship

[24 CFR 5.508]

Each family member must declare whether they are a citizen, a national, eligible non-citizen, or an individual who elects not to contend that they have eligible immigration status. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors.

Those who elect not to contend their status are considered to be ineligible non-citizens. The family must identify in writing any family members who elect not to contend their immigration status.

No declaration is required for live-in aides, foster children, or foster adults.

5.6.2 U.S Citizens and Nationals

U.S. citizens or U.S. nationals (or the parent/guardian for family members under age 18) must sign a declaration of their status, under penalty of perjury. In general, citizens and nationals are required to submit only a signed declaration as verification of their status. However, HUD regulations permit the HC to request additional documentation of their status, such as a passport. HUD strongly encourages PHAs to require that families provide proof of citizenship by such means as birth certificates, naturalization certificates, passports, or other documentation [HUD Secretary Letter 12/16/25].

Family members who declare citizenship or national status will generally not be required to provide additional documentation unless HC receives information indicating that an individual's declaration may not be accurate.

5.6.3 Eligible Non-Citizens

Eligible noncitizens (or the parent/guardian for family members under age 18) must sign a declaration of their status, under penalty of perjury. In addition to providing a signed declaration, those declaring eligible noncitizen status must provide documentation to confirm the claimed citizenship status and cooperate with HC efforts to verify their immigration status.

The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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

HC will use the USCIS SAVE system to verify eligible immigration status.

5.6.4 Ineligible Non-Citizens

Ineligible non-citizens are those non-citizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible for housing assistance.

Providing housing assistance to non-citizen students is prohibited. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non-citizen student. Such a family is eligible for prorated assistance as a mixed family.

When reviewing applicants for assistance, if HC formally makes a finding of fact or conclusion of law, supported by a determination from the Department of Homeland Security (DHS) or the Executive Office of Immigration Review (e.g., a Final Order of Deportation), that an individual is not lawfully present in the United States, then HC shall provide to DHS a report of the person's name, address, and other identifying information that HC has. Note that a SAVE response of no service record or verification of an immigration status that makes the individual ineligible for housing assistance is not a finding of fact or conclusion of law that the individual is not lawfully present. At least four times annually, HC shall provide such

information to DHS. If HC has knowledge of an individual who is not lawfully present in the United States, HC shall provide a report to DHS within 45 days after the close of the appropriate calendar year quarter [HUD Secretary Letter 12/16/25].

5.6.5 Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible non-citizen. Families that include eligible and ineligible individuals are considered mixed families. Assistance to mixed families shall be prorated. Families will receive notice of determination as a mixed family. The notice will include the fact that assistance will be prorated and that the family may request a hearing if they contest this determination.

5.6.6 Ineligible Families

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

HC will not provide assistance to a family before the verification of at least one family member.

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

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with HC.

The informal hearing with HC may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

5.6.7 Timeframe for Determination of Citizenship Status

[24 CFR 5.508(g)]

For new applicants, HC will ensure that evidence of eligible citizenship status is submitted no later than the date that HC completes verification of other aspects of eligibility for assistance.

HC will grant an extension to submit evidence of eligible immigration status if the family member:

- Submits the declaration, certifying that any person for whom required evidence has not been submitted is a noncitizen with eligible immigration status; and
- Certifies that the evidence needed to support a claim of eligible immigration status is temporarily unavailable, additional time is needed to obtain and submit the evidence, and prompt and diligent efforts will be undertaken to obtain the evidence.

If an individual qualifies for a time extension for the submission of required documents, HC will grant such an extension for no more than 30 days. HC's decision to grant or deny an extension will be issued to the family by written notice.

If the family fails to submit required evidence of eligible immigration status within the time period specified in the notice, or if the evidence is timely submitted but fails to establish eligible immigration status, HC will proceed to deny assistance.

5.7 SOCIAL SECURITY NUMBERS

[24 CFR 5.216 and 5.218, Notice PIH 2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate Social Security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN.

If a child under age six has been added to an applicant family within six months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract.

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

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

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

5.8 PHOTO IDENTIFICATION

To ensure HC has the ability to identify all persons 18 years of age or older (not just the head of household), all adult household members will be required to provide a current, government-issued identification at admission, upon addition to an HCV household or upon turning 18.

HC reserves the right to request an updated photo ID after admission to the program to confirm legal identity.

As an accommodation for individuals with disabilities and elderly individuals, as well as for individuals with religious considerations, with prior HC approval, HC may accept other forms of identification to establish identity.

5.9 OTHER REQUIRED DOCUMENTS

Applicants must provide birth certificates/proof of age/proof of birth for all household members.

The family must supply any other information that HC or HUD determines necessary to the administration of the program.

5.10 FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 5.232; HCV GB, p. 5-13]

5.10.1 Authorization for the Release of Information/Privacy Act Notice (HUD-9886-A Form)

Each adult family member and the head of household, spouse, or co-head, regardless of age, is required to sign form HUD-9886-A, Authorization for the Release of Information/Privacy Act Notice or comparable form authorized by HUD. The purpose of form HUD-9886-A is to facilitate automated data collection and

computer matching from specific sources and to provide the family's consent only for the specific purposes listed on the form.

On or after January 1, 2024, current program participants must sign and submit a new form HUD-9886-A at their next interim or regular reexamination. This form will only be signed once. Another form HUD-9886-A will not be submitted to HC except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or HC in administrative instructions.

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to HC to revoke consent.

HC will deny admission to the program or terminate assistance if any member of the applicant family fails to sign and submit required consent forms which allow HC to obtain information that HC has determined is necessary in administration of the HCV program. Further, revocation of consent to the form HUD-9886-A by any family member will result in termination of assistance or denial of admission.

5.10.2 Other HC-Required Consent Forms

Additionally, families are required to sign other HC consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

HC will deny admission to the program or terminate assistance if any member of the applicant family fails to sign and submit the consent forms which allow HC to obtain information that HC has determined necessary in the administration of the HCV program.

5.11 STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

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

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

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

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

5.11.1 Determining Student Eligibility

If a student is applying for assistance on their own, apart from his/her parents, HC will determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, HC will:

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program;
- Determine whether the student is independent from their parents in accordance with the definition of independent student in this section; and
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program.

If HC determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, HC will send a notice of denial in accordance with the policies in Denial of Assistance.

5.11.2 Definition when Determining Student Eligibility

In determining whether and how the new eligibility restrictions apply to a student, HC will rely on the following definitions:

Dependent Child

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

Independent Student

The definition of independent student includes the following criteria. To be considered an independent student, the individual must meet one or more of the following criteria: (FR 9-21-16):

- The individual is 24 years of age or older by December 31 of the award year for which aid is sought;
- The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age of older;
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
- The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
- The individual is a graduate or professional student;
- The individual is a married individual;
- The individual has one or more legal dependents other than a spouse;

- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth or as unaccompanied, at risk of homelessness, and self-supporting, by:
    - A local educational agency homeless liaison,
    - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
    - A financial aid administrator; or
- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances;
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' more recent tax forms; or
- The individual provided a certificate of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

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

HC will verify that the student meets the definition of Independent Student per the policies. See Verifying Student Independence and Parental Income of Students Subject to Eligibility Restrictions.

Institute of Higher Education

HC will use the statutory definition under Section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education*: https://www.gpo.gov/fdsys/pkg/USCODE-2011-title20/pdf/USCODE-2011-title20-chap28-subchapI-partA.pdf

Parents

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

Persons with Disabilities

HC will use the statutory definition under the 1937 Act (definition used to qualify as a family for the disabled household deduction) to determine whether a student in a *person with disabilities*. See Definition of a Person with a Disability – Disabled Deduction.

Vulnerable Youth

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

- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older;
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence;
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
    - A local educational agency homeless liaison;
    - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director; or
    - A financial aid administrator.

5.11.3 Determining Parental Income Eligibility

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of independent student above, HC will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, HC will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, HC will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, HC will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, HC will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. HC will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, HC will use the income limits for the jurisdiction in which the parents live.

5.12 APPLICANT SCREENING

HC conducts applicant screening to evaluate the eligibility of families who apply to the HCV program.

The family must provide the information necessary to establish the family's eligibility and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation.

Any required documents or information that the family is unable to provide by the initial due date given by HC must be provided within ten (10) business days from the date of the request. If the family is unable to obtain the information or materials within the required time frame, HC may provide a reasonable

extension as necessary. Applicants who fail to provide the required information within HC established time frames (including any allowed extensions) will be withdrawn from the waiting list(s) based on the family's failure to supply information needed to determine eligibility. HC will send the applicant a withdrawal notice. Such failure to act on the part of the applicant prevents HC from making an eligibility determination; therefore, HC will not offer an informal review.

Debt, criminal background, and sex offender screening policies include basic screening information, reasons for mandatory and non-mandatory denial and mitigating factors. Mitigating factors will be considered for certain screening outcomes. Upon consideration of mitigating factors, HC may, on a case-by-case basis, decide not to deny assistance.

If a tenant is terminated and re-applies, the applicant (former tenant) will be subject to all HC required screening elements to determine eligibility and suitability for the program.

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

5.12.1 Enterprise Income Verification (EIV) Screening

[EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]

EIV Existing Tenant Search

Prior to admission to the program, HC will search for all household members using the EIV Existing Tenant Search module. HC will review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified.

If the tenant is a new admission to HC, and a match is identified, HC will contact the PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. HC will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Former Tenant Search/Debts Owed and Terminations

All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

Prior to admission to the program, HC will search for each adult family member in the EIV Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute.

If HC determines that the disputed information is incorrect, HC will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

Income and Income Validation Tool (IVT) Reports

For each new admission, HC is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC/HIP submission date of the new admission. HC will review the reports and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

5.12.2 Criminal Background Screening

It is HC's policy to conduct screening for drug abuse and other criminal activity 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 tenants. In conducting screening, HC will comply with all applicable civil rights requirements contained in the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act and Titles II and III of the Americans with Disabilities Act of 1990 and other equal opportunity provisions listed in 24 CFR 5.105. Such screening will apply to any member of the household who is 18 years of age or older at the time of lease-up or move-in, including live-in aides.

A signed Background Check Consent Form, authorizing the release of criminal records from law enforcement agencies, must be completed by the household members for whom the record is being requested or in the case of a minor the adult responsible for said minor. Failure to sign the consent form will result in the denial of assistance.

HC will perform a criminal background check for every person 18 years of age or older:

- At the time of application.
- When being added as a live-in aide.
- When being added as a new household member.
- At any other time if necessary, during the family's participation on the program to determine ongoing compliance.

HC will ensure that adverse housing decisions based upon criminal activity are supported by sufficient evidence that the individual engaged in such activity. HC may deny admission based upon the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and HC has sufficient evidence that the individual engaged in the conduct.

HC may use other evidence such as police reports detailing the circumstances of the arrest, witness statements and other relevant documentation to assist in making a determination that disqualifying conduct occurred.

5.12.3 Sex Offender Screening

HC will perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in Utah, as well as in any other state where a household member is known to have resided.

5.13 DENIAL OF ASSISTANCE

A family that does not meet the eligibility criteria discussed in this chapter must be denied assistance. HC may deny assistance for an applicant because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553.

See Veterans Affairs Supportive Housing (VASH) Program for alternative screening requirements for VASH program participants.

5.13.1 HUD-Required Denials

[24 CFR 982.553(a) and 24 CFR 982.552(b)(6)]

HUD requires HC to deny assistance in the following cases:

- Any member of the applicant family fails to sign and submit consent forms or revokes consent forms which allow HC to obtain information it has determined is necessary in the administration of the HCV program (24 CFR 982.552(b)(3)).
- Any family member does not disclose and provide verification of their Social Security number (24 CFR 982.551(b)(3)).
- The family does not contain at least one member who is a U.S. citizen/national or eligible noncitizen (24 CFR 5.506).
- The family does not meet the required Income Limits for Eligibility.
- Any family member fails to meet the eligibility requirements concerning Students Enrolled in Institutions of Higher Education (24 CFR 982.552(b)(5)).
- Evidence of citizenship and eligible immigration status is not submitted when required (including any extensions) and/or eligible immigration status is not verified by the appropriate federal agency (24 CFR 5.514(c)(1)).
- Any member of the household has been evicted from federally assisted housing in the last 3 years from the date of eviction for drug-related criminal activity (24 CFR 982.553(a)(1)(i)).
    - HUD permits but does not require HC to admit an otherwise-eligible family if HC determines that the household member has completed a supervised drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household due to death or imprisonment).
- HC determines that any household member is currently engaged in the use of illegal drugs (24 CFR 982.553(a)(1)(ii)).
    - Currently *engaged* in is defined here as any use of illegal drugs during the previous six months.
- HC has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents (24 CFR 982.553(a)(1)(ii)).

- In determining reasonable cause, the HC will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. HC will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing (24 CFR 982.553(a)(1)(ii)).
- Any household member subject to a lifetime registration requirement under a state sex offender registration program (24 CFR 982.553(a)(2)(i)).

Note: the following bullet is only applicable upon full implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to full implementation, the following restriction does not apply:

- The family is ineligible due to failure to comply with Asset Restrictions.

5.13.2 HC-Required Denials

In addition to the HUD-Required Denials, HC will deny assistance related in any of the following cases:

- HC determines the family has misrepresented any information related to eligibility, award of preference for admission, allowances, family composition, or rent.
- The family:
  - Owes rent or other amounts to HC or any other PHA or owner in connection with any assisted housing program;
  - Has breached a repayment agreement with HC or another PHA entered in connection with participation in the HCV or public housing program under the 1937 Act, and the amount is not fully repaid within 14 business days from the date of the screening appointment; or
  - Any family member has been evicted from federally assisted housing in the last three years.
- Any member of the family has engaged in or threatened violent or abusive behavior toward PHA personnel.
  - *Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - *Threatening* refers to oral or *written* threats or physical gestures that communicate intent to abuse or commit violence.

5.13.3 Other Possible Reasons for Denial

If any household member is currently engaged in or has engaged in any of the following criminal activities the family may be denied admission:

- If any household member is currently engaged in, or has engaged in felony drug related criminal activity (defined by HUD as the illegal manufacture, sale, distribution or use of a drug, or the possession of a drug with intent to manufacture, sell distribute or use the drug) within the last 12 months. [24 CFR 5.100].
    - Use or possession for medical use allowed per state law will not be considered for denial.
- If any household member has engaged in violent criminal activity (defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage within the last 24 months [24 CFR 5.100].
- Evidence of such criminal activity includes, but is not limited to:
    - Any conviction for felony drug-related activity within the last 12 months
    - Any conviction for violent criminal activity within the past 24 months
- Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents, or persons residing in the immediate vicinity (24 CFR 982.553(a)(2)(ii)).

Where denial is not mandatory, prior to making a final determination on denial of assistance, HC may consider Mitigating Factors.

For Permanent Supportive Housing (PSH) Programs, the background criteria will match the landlord criteria at PSH properties unless a background is not pulled; otherwise, the above criteria will be used.

5.13.4 Mitigating Factors

HC will consider the following mitigating factors:

- HC may admit an otherwise-eligible family who has been evicted from federally-assisted housing in the last three years (from the date of eviction) for drug-related criminal activity, if HC determines that:
    - The household member who has engaged in the criminal activity has completed a supervised drug rehabilitation program, and/or
    - The circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household due to death or imprisonment).
- The seriousness of the case, especially with respect to how it would affect other tenants;
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure;
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking;
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;

- Evidence of the family's or family member's participation in or willingness to participate in social services or other appropriate counseling service programs;
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
- Removal of the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit;
- For debt-related denials (including denials due to breach of repayment agreements), HC will also consider:
    - Circumstances which led to the creation of the debt, i.e., death of a household member, economy-related layoff;
    - Current financial circumstances; and
    - The length of time since the debt was incurred, the family's recent history and the likelihood of favorable conduct in the future.

5.13.5 Criteria for Deciding to Deny Admission

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

HC will use the preponderance of the evidence as the standard for making all admission decisions.

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

Additionally, HC will consider any mitigating factors, including those listed in the Mitigating Factors section, as well as any VAWA-related or disability-related considerations.

5.14 NOTICE OF ELIGIBILITY DETERMINATION

5.14.1 Notice of Eligibility

If HC determines that the family is eligible to receive assistance, HC will notify the family of the eligibility determination and next steps in the voucher issuance and/or leasing process.

5.14.2 Denial of Assistance

If HC determines that the family is ineligible, HC will notify the family in writing in a timely manner of the determination. The notice will specify:

- The reasons for ineligibility;
- The family's right to an Informal Review;
- The process for obtaining the informal hearing; and

- Notification of applicant protections against denial, confidentiality requirements and request for documentation as provided by VAWA.

If a criminal record or sex offender registration is the basis of the denial the applicant will be given an opportunity to dispute the accuracy and relevance of the information before HC can move to deny the application. The family will be given 15 calendar days to dispute the accuracy and relevance of the information. If the family does not contact HC to dispute the information within that 15-calendar day period, HC will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the Informal Review process.

CHAPTER 6: SUBSIDY STANDARDS

6.1 OVERVIEW

Subsidy standards are established by HC to ensure that vouchers are issued to families for the appropriate size. Subsidy standards describe the factors HC uses to determine the voucher size for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This section also identifies circumstances under which an exception to the subsidy standards may be approved as well as other circumstances which dictate the voucher size for which a family qualifies.

Applicants who pass screening and are qualified for housing will be issued vouchers based on the policies established in this chapter. Units will be occupied by families of the appropriate size; however, the unit must meet the applicable space requirements according to HUD and HC inspections standards.

6.2 DETERMINING FAMILY VOUCHER SIZE

[24 CFR 982.402]

For each family, HC determines the appropriate voucher size under HC subsidy standards and enters the family unit size on the voucher that is issued to the family.

HC will apply subsidy standards consistent with the stated gender provided by the tenant. HC may make exceptions to this subsidy standard policy where cases of gender identity and other household members are concerned. Exceptions will be made on a case by case basis.

The following principles govern the size of the subsidy for which an applicant or participant household will qualify:

- One (1) bedroom is allotted for every two (2) persons in the household.
- One (1) bedroom is allotted for any live-in aide. No additional bedrooms will be provided for the live-in aide's family.
    - HC will permit a live-in aide's family members to reside in the subsidized unit provided it does not violate HUD occupancy requirements.
    - While a live-in aide may be assigned a bedroom, and added to the lease as a permitted occupant, the aide – no matter their relationship to the head of household, co-head or any other household member – has no survivorship rights to the subsidy. Single elderly or disabled households with a live-in aide will be assigned a two-bedroom subsidy.
- A family that consists of a pregnant woman (with no other persons) will be treated as a one-person family.
- Children related to a household member by birth, adoption, or court-awarded custody will be considered when determining voucher size.
- Foster children will be considered when determining voucher size. The family may add foster children to the household as long as it does not overcrowd the unit based on HC's occupancy standards. HC may consider, on a case-by-case basis, providing an additional bedroom if the

authorized placement agency (e.g., public child welfare agency) requires that the foster child have a separate bedroom.

- Space may be provided for a family member who is away at school but who lives with the family during school recesses. See policy on Absent Students.
- Children temporarily placed outside the home will be considered when determining the voucher size.
- Children who reside in the unit less than 50 percent of the time will not be considered when determining the voucher size.
- At the discretion of HC, a household member may be assigned a separate bedroom if required for a verified reasonable accommodation.

HC will follow HUD's maximum inspections space standards in determining exceptions to the maximum allowable persons in a unit.

Additionally, individual PBV properties may have occupancy standards that differ from HC's subsidy standards noted above. Owners may screen potential tenants in accordance with any additional site-specific criteria, including household size and occupancy standards, provided they comply with minimum space requirements and all other tenant selection criteria.

6.2.1 Exceptions to the Subsidy Standards

HC may grant exceptions to subsidy standards when requested by the family and HC determines the exceptions are justified by the relationships, age, sex, health or disability of family members, or other individual circumstances [24 CFR 982.402(b)(8)].

HC will not grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests for a larger voucher size must explain the need or justification for the larger sized unit and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at the time of the household's regular recertification.

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero- or one-bedroom voucher.

6.3 TEMPORARILY AND PERMANENTLY ABSENT FAMILY MEMBERS

An individual who is or is expected to be absent from the assisted apartment for up to 180 consecutive days is considered temporarily absent and continues to be considered a family member. See policies on Absence from the Unit.

HC will require that temporarily absent family members complete and submit required reexamination documents on a timely basis. An individual who is or is expected to be absent from the assisted apartment for more than 180 consecutive days is considered permanently absent and is no longer a family member. Exceptions to this policy are reviewed on a case-by-case basis. HC will require documentation to support the length of the period the family member will be absent from the unit.

If an individual who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

6.3.1 Absent Students

When family member attends school away from home, the person will continue to be considered a family member unless information becomes available to HC indicating that the student has established a separate household or the family declares that the student has established a separate household.

6.3.2 Absences Due to Placement in Foster Care

Children temporarily (less than 90 consecutive days) absent from the home as a result of placement in foster care are considered members of the family. If a child has been placed in foster care, HC will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member for subsidy standards.

6.3.3 Absent Adults Due to Military Service

An adult family member absent from the apartment more than 180 consecutive days due active military service will continue to be considered a family member provided that their income is included in the calculation of household income and there is an expected date of return that is within a year of their departure.

6.3.4 Individuals Confined for Medical Reasons

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. HC will request verification from a responsible medical professional. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

6.3.5 Return of Permanently Absent Family Members

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

CHAPTER 7: BRIEFINGS & VOUCHER ISSUANCE

7.1 OVERVIEW

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the HCV program, HC will ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. Once the family is fully informed of the program's requirements, HC issues the family a voucher. The voucher includes the unit size for which the family qualifies based on HC's subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit and limits the amount of time the family has to successfully locate an acceptable unit.

7.2 VOUCHER PROGRAM BRIEFING

[24 CFR 982.301]

The briefing provides a broad description of owner and family responsibilities, explains HC's procedures, and includes instructions on how to lease a unit.

HC will give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups.

7.2.1 Notification

HC will contact families to advise them as to the type of briefing. Notification will identify who is required to participate in the briefing, as well as the date and time of the scheduled briefing. The notice will also inform the family of any additional requirements for briefings as addressed in relevant policy elsewhere in this section.

If a notice is emailed and HC receives a notice the email could not be delivered, a notice will be mailed to the household.

If the notice is returned by the post office with no forwarding address, the applicant will be withdrawn, and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to participate in a scheduled briefing will automatically be scheduled for another briefing. HC will notify the family of the date and time of the second scheduled briefing. Applicants who fail to participate in two scheduled briefings without HC approval, will be withdrawn from the waiting list. If an applicant does not participate in two scheduled briefings because of a family member's disability, HC will reschedule the family for another briefing as a reasonable accommodation.

7.2.2 Briefings

HC may conduct in-person or remote briefings [Notice PIH 2020-32]. The briefing notice will inform the family of the briefing method and related guidance to ensure meaningful access to the briefing session.

Generally, the head of household is required to participate in the briefing. If the head of household is unable to participate, HC may approve another adult family member to participate in the briefing.

Remote briefings may be conducted over the phone, via video conferencing, or through other virtual platforms. If applicants are unable to adequately access the platform used, the briefing may be conducted via another platform. If the briefing must be postponed due to technical issues (including the lack of availability of technology) or if the family loses connectivity or otherwise feels they were unable to access information presented during the briefing, an in-person alternative or one-on-one briefing over the phone may be provided.

HC will ensure that:

- All electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring personally identifiable information (PII) is protected; and
- Families who participate in remote briefings have the opportunity to ask questions as part of the briefing.

7.2.3 Oral Briefing

[24 CFR 982.301(a)]

Each briefing will include information on the following subjects:

- How the HCV program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside HC's jurisdiction and any information on selecting a unit that HUD provides;
- An explanation of how portability works;
- An explanation of how portability may affect the family's assistance through screening, subsidy standards, payment standards and any other elements of the portability process which may affect the family's assistance;
- An explanation of the advantages of living in areas that do not have a high concentration of low-income families.

HC will not discourage the family from choosing to live anywhere in HC's jurisdiction or outside HC's jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order.

Additionally, HC will take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6 and 28 CFR part 35, subpart E, and provide information on the reasonable accommodation process.

7.2.4 Briefing Packet

[24 CFR 982.301(b); New HCV GB, *Housing Search and Leasing,* p. 7]

Documents and information provided in the briefing packet will include the following. This information is provided to the applicant either at the time of formal application or at the Briefing session.

- The term of the voucher, and HC's policies on any extensions or suspensions of the term, including how to request an extension to the term of the voucher;
- A description of the method used to calculate the housing assistance payment for a household, including how HC determines the payment standard for a household, and how HC determines total tenant payment for a household;
- An explanation of how HC determines the maximum allowable rent for an assisted unit;
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance;
- The HUD-required tenancy addendum, which must be included in the lease;
- The form the family must use to request approval of tenancy, and an explanation of how to request approval;
- A statement of HC policy on providing information about households to prospective owners;
- HC's subsidy standards and when HC will consider granting exceptions as allowed by 24 CFR 982.404(b)(8), and when exceptions are required as a reasonable accommodation for persons with disabilities under Section 504, the Fair Housing Act, or the Americans with Disabilities Act (ADA).
- Materials on how to select a unit and any additional information on selecting a unit that HUD provides;
- Information on federal, state and local equal opportunity laws, the contact information for the Section 504 coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation or modification (including information on requesting exception payment standards as a reasonable accommodation) under Section 504, the Fair Housing Act, or the Americans with Disabilities Act (ADA);
- A list of landlords known to HC who may be willing to lease a unit to the household or other resources such as newspapers, organization and online search tools, known to HC that may assist the family in locating a unit. HC will try to ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration;
- Notice that if the family includes a person with disabilities, HC is subject to requirements under 24 CFR 8.28(a)(3) to provide a current listing of accessible units known to HC, and if necessary, other assistance in locating an available unit. The family obligations under the program;
- HC's informal hearing procedures, including when HC is required to offer a household the opportunity for an informal hearing, and how to request the hearing;
- An explanation of the advantages of moving to areas that do not have a high concentration of low-income families, which may include access to accessible and high-quality housing, transit, employment opportunities, educational opportunities, recreational facilities, public safety stations, retail services, and health services;

- The HUD pamphlet on lead-based paint entitled, Protect Your Family from Lead in Your Home;
- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction;
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs, including names, addresses, and telephone numbers; and
- The grounds on which HC may terminate assistance for a household because of household action or failure to act.

7.3 VOUCHER ISSUANCE

[24 CFR 982.302]

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher serves as evidence that HC has determined the family to be eligible for the program, and that HC expects to have money available to subsidize the family if the family finds an approvable unit.

A voucher can be issued to an applicant family only after HC has determined that the family is eligible for the program based on information received within the 60 days prior to issuance and after the family has attended a mandatory briefing.

7.3.1 Funding Shortfall

If funds are insufficient to house the family at the top of the waiting list, HC will wait until it has adequate funding before issuing additional vouchers. If HC determines that there is insufficient funding after a voucher has been issued, HC may, with HUD approval, rescind the voucher and place the affected family back on the waiting list.

7.4 VOUCHER TERM

[24 CFR 982.303]

The initial voucher term will be 120 calendar days. The family must submit a Request for Tenancy Approval (RFTA) and proposed lease within the 120-day period unless HC grants an extension.

7.4.1 Extensions of Voucher Term

[24 CFR 982.303(b)]

HC will not approve additional extensions unless necessary as a reasonable accommodation for a person with disabilities.

7.4.2 Special Purpose Voucher Program Issuance and Extension Requirements

The following policies and requirements apply to Mainstream, VASH, and FUP/FYI applicants and participants.

1. Initial Voucher Term: 120 days.

2. Extension(s):

    a. Requests may be made in writing or verbally as long as the request is made on or before the term expiration date and is consistent with the applicable requirements.

    b. HC will provide, at minimum, one 90-day extension and will not restrict approval of the initial extension to certain circumstances or require documentation from applicants.

    c. Any subsequent extension requests beyond the initial extension must be made in writing and consistent with the policies in this Plan.

3. HC will notify the family prior to the initial term expiration at least once to remind them of the term expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search.

See Voucher Issuance sections of the **SPECIAL PURPOSE VOUCHERS** chapter for more information.

7.4.3 Suspensions of Voucher Term

[24 CFR 982.303(c)]

When RFTA is received by HC, the term of any initial or extended voucher will be suspended from the date the family submits a request for tenancy approval until the date HC notifies the family, in writing, whether the request has been approved or denied.

7.4.4 Expiration of Voucher Term

If an applicant's voucher term or extension expires before the family has submitted a RFTA, HC will require the family to reapply for assistance. If a RFTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by HC (after the voucher term has expired), the family may be required to reapply for assistance.

CHAPTER 8: VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2023-27]

8.1 OVERVIEW

HC verifies all information that is used to establish the family's eligibility and level of assistance. Applicants and participants must cooperate with the verification process as a condition of receiving assistance.

8.2 FAMILY CONSENT TO RELEASE OF INFORMATION

The family must supply any information that HC or HUD determines is necessary for the administration of the program and must consent to verification of that information by HC.

8.2.1 Authorization for the Release of Information/Privacy Act Notice (HUD-9886-A Form)

Each adult family member and the head of household, spouse, or co-head, regardless of age, is required to sign form HUD-9886-A, Authorization for the Release of Information/Privacy Act Notice or comparable form authorized by HUD.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and to provide the family's consent only for the specific purposes listed on the form.

On or after January 1, 2024, current program participants must sign and submit a new form HUD-9886-A at their next interim or regular reexamination. This form will only be signed once. Another form HUD-9886-A will not be submitted to HC except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or HC in administrative instructions.

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to HC to revoke consent.

HC will deny admission to the program or terminate assistance if any member of the applicant family fails to sign and submit required consent forms which allow HC to obtain information that HC has determined is necessary in administration of the HCV program. Further, revocation of consent to the form HUD-9886-A by any family member will result in termination of assistance or denial of admission.

See Authorization for the Release of Information/Privacy Act Notice (HUD-9886-A Form) in the Eligibility chapter for more information.

8.2.2 Other HC-Required Consent Forms

Additionally, families are required to sign other HC consent forms as needed to collect information relevant to the family's eligibility and level of assistance. HC will deny admission to the program or terminate assistance if any adult member of the applicant family fails to sign and submit the consent forms which allow HC to obtain information that HC has determined necessary in the administration of the HCV program.

8.2.3 Penalties for Failing to Consent

[24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, HC will deny admission to applicants and terminate assistance of participants. Additionally, if the applicant or participant revokes their consent for HC to access financial records needed to determine eligibility or level of assistance then HC will deny admission or terminate assistance in accordance with HC policy.

In order for a family to revoke their consent, the family must provide written notice to HC. Within 10 business days of the date the family provides written notice, HC will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, HC will notify their local HUD office.

8.3 USE OF OTHER PROGRAMS' INCOME DETERMINATIONS

During a household's regular recertification, HC may opt to (but is not required to) determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from certain means-tested federal public assistance programs.

HC will not accept other programs' determinations of income for any new admission or interim reexamination.

HC will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the HC will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

8.3.1 Acceptable "Safe Harbor" Income Determinations

HC may accept *Safe Harbor* income determinations from any of the following programs:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and

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

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;
- State the family size;
- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and
- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If HC does not receive any acceptable income determination documentation or is unable to obtain documentation, then the HC will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, HC will use the most recent income determination, unless the family presents acceptable evidence that HC should consider an alternative verification from a different Safe Harbor source.

8.3.2 Requirements for Utilizing "Safe Harbor" Income Determinations

Prior to using any Safe Harbor determination from another program, HC will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, HC will obtain third-party verification of all sources of income and assets (as applicable).

When HC uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to HC. Depending on when the change occurred, the change may or may not impact HC's calculation of the family's total annual income. Changes that occur between the time HC receives the Safe Harbor documentation and the effective date of the family's regular recertification will not be considered. If the family has a change in income that occurs after the regular recertification effective date, HC will conduct an interim reexamination if the change meets the requirements for performing an interim reexamination. In this case, HC will use third-party verification to verify the change.

8.4 VERIFICATION HIERARCHY

Unless HC utilizes an income determination from a means-tested federal assistance program (as described in Use of Other Programs' Income Determinations), HC is responsible for obtaining third-party verification of:

- Reported family annual income;
- The value of assets (as applicable);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HC will use the most reliable form of verification that is available and will document the reasons when HC uses a lesser form of verification. HC will attempt to obtain third-party verification, when available, prior to accepting self-certification, except instances when self-certification is explicitly allowed, as described below.

8.4.1 Alternative Verification Requirements

MTW Policy

MTW Waiver: Agency-Specific Waiver – Alternative Verification Hierarchy

Approval Date: FY 2022

Applicable to: All households

Description: This activity waives provisions of HUD PIH Notice 2018-18 (including PIH Notice 2023-27) and successor notices to allow HC to utilize an alternative, streamlined method to verify household member income for all Public Housing and HCV program applicants and participants. Policies approved under this waiver are outlined below, and detailed throughout this chapter:

1. **Extend the time that verification documents are valid:** Verifications for reexaminations may not be dated more than 180 days from the date they are provided to HC.
2. **Fixed Sources of Income:** Verification documents for fixed income sources will be valid for the full calendar year in which the income is effective.
3. **Establish an** Alternative Verification Hierarchy to streamline the verification process.

8.4.2 Alternative Verification Hierarchy

MTW Policy

MTW Waiver: Agency-Specific Waiver – Alternative Verification Hierarchy

Approval Date: FY 2022

Applicable to: All households

Description: This activity waives provisions of HUD PIH Notice 2018-18 and successor notices (including PIH Notice 2023-27) to allow HC to utilize an alternative, streamlined method to verify household member income for all Public Housing and HCV program applicants and participants.

Under the existing HUD Income Verification Hierarchy, HC is required to request and document attempts to obtain written third party verification forms and oral verification prior to relying on a tenant declaration. HC's modified Income Verification Hierarchy will allow HC to rely on any of the third-party verification methods before accepting self-certification. This process will streamline the verification process and allow HC to repurpose staff time on tasks outside of verification.

In order of priority, the forms of verification that HC will use are:

1. **Upfront Income Verification using HUD's EIV and IVT** – Highest (Mandatory)
2. **Upfront Income Verification (UIV)** using non-HUD system – Highest (Optional)
3. **Written or Oral Third-Party** (includes Written Third Party Verification, Written Third Party Verification Form, or Oral Third Party Verification)* – High (Mandatory)

**HC may obtain any of these three forms of verification, but does not need to attempt to obtain all three forms of verification before moving on to self-certification.*

4. **Self-Certification**** – High (Optional)

***As applicable and/or as needed to supplement EIV documentation and/or when third-party documentation cannot be obtained.*

Families may request an Alternative Verification Hierarchy Hardship if the family does not agree with an income and rent determination based on documentation used under the Alternative Verification Hierarchy.

8.4.3 Enterprise Income Verification (EIV) System

HC will use HUD's EIV system as a third-party source to validate resident employment and verify certain income information during regular reexaminations of family composition and income.

Note that while HC is required to run EIV and IVT reports at each regular recertification, it is not required to use those reports if at a regular recertification HC used Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

The following policies apply to the use of HUD's EIV system.

EIV Income Reports

EIV reports will be run within 120 days of the effective recertification date and compared to family-provided information as part of the regular reexamination process and/or as needed.

Income reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

EIV reports will be used as necessary to identify earned income and unemployment benefits, and to verify and calculate Social Security, Dual Entitlement, and/or Supplemental Security Income (SSI) benefits. EIV may be used to verify and calculate earned income and unemployment benefits if accompanied by a self-certification by the family that the amount is accurate and representative of current income. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income Validation Tool (IVT)

The IVT report facilitates and enhances identification of unreported or under-reported income. The IVT also provides income and wage, unemployment compensation and SSA benefit information. Additionally, the IVT report provides income information for heads of household and family members where there may be discrepancies in family reported income and employer reported information.

At each regular reexamination of income and family composition and/or as needed, HC will:

- Review the EIV Income and IVT reports to confirm/validate tenant-reported income;

- Maintain the EIV Income and IVT Reports in the tenant file;
- Obtain current acceptable tenant-provided documentation to supplement EIV information (where applicable); and
- Use current family-provided documentation and/or third-party verification to calculate annual income, as needed.

Additionally, at each regular reexamination of income and family composition, and/or as needed, using the IVT, HC will:

- Identify any reported discrepancies in family reported income and employer reported information;
- Request the family to provide any documentation to confirm or dispute the income discrepancy;
- As applicable, determine the degree of family underreporting or misreporting of income information; and
- Take action in accordance with HC policy to resolve the identified discrepancies.

New Admissions

For each new admission, HC will review the EIV Income and IVT Reports within 120 days from the first IMS/PIC/HIP submission date to ensure that families, at the time of admission, accurately reported income. HC will retain the reports in the family's file and will take action to address any income discrepancies.

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on Social Security number, name, and date of birth. When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

HC will identify residents whose identity verification has failed. HC will attempt to resolve discrepancies by obtaining appropriate documentation from the family. When HC determines that discrepancies exist as a result of HC errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Report

HC will review the Deceased Tenants Report on a monthly basis, confirm the death of any household member, and timely remove any deceased household member. If the deceased person is a sole-member household, HC will complete an End of Participation (EOP) action 50058 as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. HC may not designate the live-in aide as the new head of household or change the relation code on the form HUD-50058.

Other EIV Reports

HC will review other EIV reports, such as the Multiple Subsidy Report and Failed EIV Pre-Screening and Failed Verification reports as required per Notice PIH 2023-27 or subsequent guidance.

New Hires Report

Note: the following section is only applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104).

HC will review the EIV New Hires Report at each family's regular recertification.

No Income Reported by HHS or SSA Report

Note: the following section is only applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104).

HC will generate the No Income Reported by the Department of Health and Human Services (HHS) or Social Security Administration (SSA) Report at least quarterly and will retain the report.

HC will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, HC may require that family members provide verifications or sign release forms in order to obtain additional verification.

When HC determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in PROGRAM INTEGRITY.

8.4.4 Upfront Income Verification (UIV)

UIV refers to HC's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to HC.

8.4.5 Written or Oral Third-Party Verification

Written-Third Party Verification

Written third-party verification is an original or authentic document generated by a third-party source. Such documentation may be in the possession of the resident or the applicant. HC may, at its discretion, reject any family-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable family-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source) are an acceptable form of written, third-party verification.

In general, HC will use third-party verification from the source in the following circumstances:

- At regular recertification when EIV + self-certification is not used;
- For all new admissions; and

- For all interim reexaminations.

HC will not use this method if it is able to use an income determination from a means-tested federal assistance program.

The following are HC's general verification requirements when written third-party verification is used:

- Documentation must generally be dated within 180 calendar days of the date received by HC. For fixed income sources, a statement valid for the applicable calendar year in which the income is effective is acceptable documentation. See Alternative Verification Requirements – MTW for alternative requirements for MTW and other program households.
- HC may reject any family-provided documentation if:
    - The document has been altered, mutilated, or is not legible/readable;
    - The document appears to be a forged document (i.e., does not appear to be authentic); and/or
    - The document is missing key information necessary to verify and calculate the income accurately and attribute the income to the correct family member.
- When using pay stubs to calculate earned income, HC will generally obtain the minimum required amount of pay-stubs needed to calculate income. However, for new income sources or when the minimum number of pay stubs is not available, HC may determine income based on the information from a traditional written, third-party verification form or the best available information.
- When verification of assets is required, HC must obtain at least one statement that reflects the current balance of banking/financial accounts.

See also **When Third-Party Verification Is Not Required**.

Written Third-Party Verification Form

As needed, HC may obtain a written third-party verification form, which is a standardized form used to collect information from a third-party source. HC may mail, fax, or e-mail third-party written verification form requests to third-party sources.

Oral Third-Party Verification

As needed, HC may obtain oral third-party verification, which is independent verification of information obtained by contacting the individual income/expense source(s), as identified through the UIV technique or by the family. HC staff will document the family's file to record the date and time of the telephone call (or visit to the third party), the name of the person and organization contacted and telephone number, along with the confirmed information.

8.4.6 When Third-Party Verification Is Not Required

Third-party verification will not be required under the following circumstances:

- **Verification Service Charge**: if there is a service charge for third-party verification, HC will assume that third-party verification is not available and use the next level of verification according to the verification hierarchy set forth in this chapter.
- **Primary Documents**: third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.
- **Assets Disposed of for Less than Fair Market Value**: HC will accept a self-certification from the family as verification of assets disposed of for less than fair market value.
- **Value of Assets and Asset Income**: HC will accept a self-certification for families with net assets totaling $50,000 or less. See Verification of Assets for more information on asset policies.
- **Fully-Excluded Income**: HC will accept a self-certification of income that is fully excluded; see Income from Excluded Sources.

8.4.7 Self-Certification

Self-certification is used as a last resort when HC is unable to obtain third-party verification.

When information cannot be verified in EIV, by a third party, or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to HC. HC will document the file with attempts to obtain higher forms of verification before relying on self-certification.

HC may require a family to certify that a family member does **not** receive a particular type of income or benefit.

The self-certification must be made in a format acceptable HC and must be signed by the family member whose information or status is being verified.

However, self-certification is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total $50,000 or less;
- The family declares that they do not have any present ownership in any real property; and/or
- A family states that they have non-recurring income that will not be repeated in the coming year.

Self-certification is generally not acceptable for the following:

- Social Security/SSI benefits,
- Public assistance,
- Disability (unless obvious or otherwise known, for reasonable accommodation purposes only),
- Unemployment,
- Veteran's Administration pension,
- Court-ordered child support,

- Worker's compensation,
- Unreimbursed medical expenses,
- Full-time student status.

8.5 INCOME DISCREPANCIES

8.5.1 Substantial Difference

If UIV/third-party information differs substantially from family-provided information, HC reserves the right to request additional verification information and use any other verification method in priority order to reconcile the difference.

> ***MTW Policy***
>
> **MTW Waiver:** Agency-Specific Waiver – Alternative Verification Methods
>
> **Approval Date:** FY 2022
>
> **Applicable to:** All households
>
> **Description:** Under this waiver, HC will continue to identify income discrepancies and take action to process discrepancies which may result in corrections to reexamination actions. The threshold for discrepancies will be set at $5,000.

8.5.2 Fraud

Information provided by the family that proves to be untrue may be used to disqualify the applicant for admission or terminate the participant's assistance on the basis of attempted fraud. HC considers false information concerning the following to be grounds for rejecting an applicant or terminating assistance:

- Income, assets, family composition;
- Social Security numbers;
- Preferences;
- Allowances (e.g., medical, disability and/or child care expenses); and
- Previous participant history or criminal history.

The family shall be notified in writing of such determination by HC and will be given the opportunity for an informal review or hearing, as applicable. See INFORMAL REVIEWS AND HEARINGS and PROGRAM INTEGRITY.

8.6 VERIFYING FAMILY INFORMATION

8.6.1 Verification of Legal Identity

HC will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
• Certificate of birth, naturalization papers,	• Certificate of birth

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
• Church-issued baptismal certificate • Current, valid driver's license or Department of Motor Vehicles identification card • U.S. military discharge (DD 214) • Current U.S. passport • Current employer identification card	• Adoption papers • Custody agreement • Health and Human Services ID • Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the HC's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the HC.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where HC has reason to doubt the identity of a person representing him or herself to be a participant.

8.6.2 Social Security Number (SSN) Verification

[24 CFR 5.216, Notice PIH 2023-27]

The family must provide documentation of a valid SSN for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Additionally, the head of household may not opt to remove a household member from the family composition for this purpose [24 CFR 5.218(c)(1)].

Documents Used to Verify Social Security Numbers

Social Security numbers must be verified only once during continuously assisted occupancy, unless HC has received conflicting information concerning a household member's SSN.

HC will accept the following documentation as acceptable evidence of the Social Security number:

- An original SSN card issued by the Social Security Administration (SSA);
- An original SSA-issued document, which contains the name and SSN of the individual;
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual;
- Such other evidence of the SSN as HUD may prescribe in administrative instructions.

If HC has attempted to obtain third-party verification of an applicant's SSN prior to admission, HC may—and for VASH families, will—accept the applicant's self-certification and a third-party document with their

name printed on it (such as a bank statement, benefit letter, utility bill or cell phone bill) to satisfy the SSN disclosure requirement. However, this is only allowable when HC has exhausted all other attempts to obtain the required documentation and has documented why other SSN documentation was unavailable.

If the tenant's SSN is verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then HC must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

HC may reject documentation of an SSN provided by an applicant or tenant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

HC will retain in the family's file the verification of each SSN provided. The retention of the EIV Summary Report or Income Report showing an individual's status as *verified* is also adequate documentation of an individual's SSN.

Adding a Family Member who is a Child Under Six Who Lack a Social Security Number

When a family requests to add a new household member who is at least 6 years of age, the family must provide the complete and accurate SSN assigned to each new member at the time of reexamination, in addition to the documentation required to verify it. HC may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not yet been assigned an SSN, the resident must provide the SSN assigned to the new child and the required documentation within 90 calendar days of the child being added to the household. If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, HC may grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, if HC determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period HC is awaiting documentation of the SSN, the child will be counted as part of the assisted household and will be entitled to all of the benefits of being a household member during the time allotted for the family to comply with the SSN disclosure and documentation requirements. Upon expiration of the time period, if the family has not complied with the SSN disclosure and documentation requirements, HC will terminate the family's assistance.

8.6.3 Documentation of Age

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of Social Security retirement benefits cannot be provided, HC will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy, unless HC receives information that a household member's date of birth is incorrect.

8.6.4 Verification of Family Relationships

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Certification by the head of household is normally sufficient verification of marriage. If HC has reasonable doubts about a marital relationship, HC will require the family to document the marriage. A marriage certificate generally is required to verify that a couple is married. In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

Certification by the head of household is normally sufficient verification. However, HC may require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides, such as a lease or utility bill).

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the foster child or foster adult with the family is required.

8.6.5 Student Status Verification

HC requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head, spouse, or co-head;
- The family claims a child care deduction to enable a family member to further his or her education; or
- The family includes a student enrolled in an *institution of higher education.* See Students Enrolled in Institutions of Higher Education.

See the GLOSSARY OF TERMS AND DEFINITIONS for the definition of Full-Time Student.

Verification of Restrictions on Assistance to Students

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

In accordance with the verification hierarchy HC will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of institution of higher education in the Higher Education Act of 1965;
- The student is at least 24 years old;
- The student is a veteran;
- The student is married;
- The student has at least one dependent child;
- The student is a person with disabilities and was receiving assistance prior to November 30, 2005.

If HC cannot verify at least one of these exemption criteria, HC will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, HC will verify either the student's parents' income eligibility or the student's independence from his/her parents.

Verifying Student Independence and Parental Income of Students Subject to Eligibility Restrictions

HC is required to determine the income eligibility of a student's parents. HC will request an income declaration and certification of income from the appropriate parent(s). HC will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. Certification is also required if the parent is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income (except if the student meets the Department of Education's definition of *independent student*).

The parents will be required to submit the information directly to HC. HC reserves the right to request and review supporting documentation at any time if it questions the declaration or certification.

Supporting documentation may include, but is not limited to, Internal Revenue Service tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

Verification of Student Financial Assistance and Fees

HC will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the Higher Education Act of 1965, HC will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If HC is unable to obtain third-party written verification of the requested information, HC will pursue other forms of verification following the verification hierarchy.

8.6.6 Verification of Disability

HC will verify the existence of a disability in order to determine waiting list preferences (as applicable) and in order to allow certain income disallowances and deductions from income.

For family members claiming disability who receive disability benefits from the SSA, HC will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, HC will request a current (dated within the last 120 days) SSA benefit verification letter from each family member claiming disability status.

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability (see Definition of a Person with a Disability – Disabled Deduction). The knowledgeable professional will verify whether the family member does or does not meet the HUD definition of disability.

8.6.7 Verification of U.S. Citizenship and of Eligible Immigration Status

[24 CFR 5.508]

HUD requires the family to provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen. The declaration must be signed personally by any family member 18 or older or by a guardian for minors.

U.S. Citizens and Nationals

Family members who claim U.S. citizenship or national status will generally not be required to provide additional documentation unless HC receives information indicating that an individual's declaration may not be accurate. However, HUD strongly encourages PHAs to require that families provide proof of citizenship by such means as birth certificates, naturalization certificates, passports, or other documentation [HUD Secretary Letter 12/16/25]; therefore, HC may request additional documentation at its discretion.

Eligible Immigrants

[HCV GB, pp. 5-3 and 5-7, HUD Secretary Letter 12/16/25]

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required; however, no further verification of eligible immigration status is required.

Family members under the age of 62 who claim to be eligible immigrants must provide supporting documentation of their immigration status and sign a verification consent form. Supporting documentation consists of documentation accepted by the U.S. Citizenship and Immigration Services (USCIS)—for example, a Form I-551 U.S. Permanent Resident Card. HC will verify immigration status with the U.S. Citizenship and Immigration Services (USCIS). HC will follow all USCIS protocols for verification of eligible immigration status. The primary method for verifying eligible immigration status is USCIS's automated system, Systematic Alien Verification for Entitlements (SAVE). HC will determine whether the

applicant's status makes them eligible for assistance consistent with Documentation Requirements for Non-Citizens Under Age 62 below.

Where applicable, HC will retain documentation of SAVE verification in tenant files. If SAVE cannot confirm an individual's eligible immigration status, or if the response in SAVE verifies an immigration status that is not eligible for assistance, then HC will submit a request for secondary or additional verification to USCIS within 10 days of receiving the initial results. HC will scan and upload information to USCIS as needed or required to obtain a verification response. If the secondary or additional verification fails, HC will notify the family and inform them of their right to file an appeal with USCIS. If the family wishes to exercise their right to file an appeal with USCIS, they must submit a written request to USCIS within 30 days of the notification. Assistance must be denied when primary and secondary verification do not verify eligible immigration status and the family does not pursue a USCIS appeal or informal hearing rights, or decisions are rendered against the family through a USCIS appeal or informal hearing.

HC shall not delay, deny, reduce, or terminate assistance because of a delay in the process of determining eligible status, unless the family causes the delay. While HC may not admit any individual prior to receiving required documentation, HC may elect to provide prorated assistance to the family prior to completing the verification process.

Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible for housing assistance. The head of household must sign a statement listing all family members who do not claim to be citizens, nationals, or eligible immigrants, or whose status cannot be confirmed.

Documentation Requirements for Non-Citizens Under Age 62

Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are as follows:

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
    - "Admitted as a Refugee Pursuant to Section 207"
    - "Section 208" or "Asylum"
    - "Section 243(h)" or "Deportation stayed by Attorney General"
    - "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
- Form I-94 Arrival-Departure Record with no annotation accompanied by:
    - A final court decision granting asylum (but only if no appeal is taken);
    - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
    - A court decision granting withholding of deportation; or
    - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".
- Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".
- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.

8.6.8 Verification of Preference Status

HC must verify any preferences claimed by an applicant that determined placement on the waiting list. Preferences are covered in detail in Local Preferences.

8.7 VERIFICATION OF INCOME

HC will verify income using applicable regulatory and HC policies and procedures. Applicable requirements may differ as noted below:

- **MTW Stepped Rent Households:**
    - **At Admission, Prospective Income:** When verifying and calculating annual income for a household at initial eligibility screening and admission to the program, HC will collect and verify current/anticipated income. Generally, anticipated income is calculated by annualizing the income in the last two months of the retrospective period.
    - **Recertifying Households, Retrospective Income:** when verifying and calculating annual income for a household at the time of a regular reexamination, HC will review and calculate the family's income from the preceding 12-month period, taking into consideration any interims or changes that have taken place during that period. If HC determines that the family's prior-year income does not reflect the family's current income, it may adjust the calculation of annual income as needed.
- **All Other Households:**
    - **Prior to implementation of the HOTMA Final Rule (Sections 102 and 104):**
        - **Prospective Income:** When verifying and calculating annual income for a household, HC will generally collect and verify current/anticipated income. Generally, anticipated income is calculated by annualizing the income within the last two months of the retrospective period.
    - **Upon implementation of the HOTMA Final Rule (Sections 102 and 104)**

Note: the following two bullet points are only applicable upon full implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to full implementation, the following does not apply.

- **At Admission, Prospective Income:** When verifying and calculating annual income for a household at initial eligibility screening and admission to the program, HC will collect and verify current/anticipated income. Generally, anticipated income is calculated by annualizing the income in the last two months of the retrospective period.
- **Recertifying Households, Retrospective Income:** when verifying and calculating annual income for a household at the time of a regular reexamination, HC will review and calculate the family's income from the preceding 12-month period, taking into consideration any interims or changes that have taken place during that period. If HC determines that the family's prior-year income does not reflect the family's current income, it may adjust the calculation of annual income as needed.

See **INCOME AND SUBSIDY DETERMINATION** for more information on calculating income from various sources.

8.7.1 Employment Income

Employment income will be verified according to the Alternative Verification Hierarchy – MTW. This may include UIV (such as the Work Number), written third-party verification (such as pay stubs or EIV + self certification), and/or written or oral third-party verification from the employer.

Self-certification of employment income may be used as a last resort when HC is unable to obtain third-party verification.

8.7.2 Business and Self-Employment Income

Business owners and self-employed persons will be required to provide income tax returns for the most recent year with corresponding official tax forms and schedules attached. 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. For those in "gig employment" situations, HC may opt to accept monthly or weekly statements from the applicable app in addition to the person's Schedule C and form IRS 1099 or 1099k.

HC will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination, HC may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed for less than three (3) months, HC will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months.

If the family member has been self-employed for only three (3) to twelve (12) months, HC will require the family to provide documentation of income and expenses for this period and use that information to project income.

Net Income from Rental Property

If the family reports income from rental property, the family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant; and
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income), along with proof of filing. If Schedule E was not prepared, HC will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

However, under HOTMA, if the family has a present ownership interest in such real property, a legal right to reside in it, the effective legal authority to sell it, and it is considered suitable for their occupancy as a residence, that ownership interest will be disqualifying for both eligibility and continued occupancy in the program (see Asset Restrictions); however there may be circumstances where the family does not have the effective legal authority to sell the real property due to the structure of their business. See Real Property Ownership.

8.7.3 Verification of Social Security and SSI Benefits

Applicants

To verify the Social Security and SSI benefits of applicants, HC will request a current SSA benefit verification letter from each family member that receives Social Security benefits. If the family is unable to provide the document(s), HC will help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one from the SSA (see Income from Fixed Sources).

Participants

To verify the SS/SSI benefits of participants, HC will obtain information about Social Security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, HC will request a current SSA benefit verification letter from each family member that receives SSA benefits. If the family is unable to provide the document(s) HC will help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one from the SSA (see Income from Fixed Sources).

Income from Fixed Sources

For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation of a fixed income source.

8.7.4 Child Support and Alimony

If the family declares that it receives child support or alimony payments, whether regular or irregular, HC will require third-party verification from the support enforcement agency or support provider.

8.7.5 Income from Retirement Accounts

HC will accept a document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

8.7.6 Income from Excluded Sources

For fully excluded income (see Annual Income Exclusions), HC is not required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. HC will accept the family's self-certification as verification of fully excluded income. HC may request additional documentation if necessary to document the income source.

HC may require verification where there is a doubt that a source of income qualifies for full exclusion.

Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance). HC will verify the source and amount of partially excluded income.

8.7.7 Zero Income Household

Families claiming no annual income will be required to execute verification forms to determine that certain forms of income outside the realm of EIV are not being received by the household. Receipt of Supplemental Nutrition Assistance Program (SNAP)/food stamp benefits is not considered income for the purposes of zero income verification; families receiving SNAP with no other income will be required to verify zero income status as described in this section.

Any payments paid on behalf of the family and other cash or non-cash contributions provided on a recurring basis may be counted as income depending on the duration and circumstances.

Zero Income Verification Requirements

HC will check EIV, UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, Social Security, SSI, and earnings are not being received by families claiming to have zero annual income.

HC will also require the head of household to complete an Affidavit of Zero Income form.

See also Determining Income and Assets for VASH households for alternative requirements for VASH households.

8.7.1 Non-Recurring Income

Non-recurring income is income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family. This income is considered "nonrecurring income" and is therefore excluded from annual income. HC may accept a self-certification from the family stating that the income will not be repeated in the coming year. However, HC may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

8.8 VERIFICATION OF ASSETS

See the definition of Net Family Assets in the GLOSSARY OF TERMS AND DEFINITIONS for what is excluded from assets.

See Asset Restrictions for policies under which a household may be disqualified from admission or continued occupancy due to assets, upon full implementation of the HOTMA Final Rule.

See also Determining Income and Assets for VASH households for alternative requirements for VASH households.

MTW Policy

MTW Waiver: 3.d.i (Safe Harbor) – Self-Certification of Assets

Approval Date: FY 2022

Applicable to: All households

Description: Applicants and existing participants may self-certify asset value and income when the market value of the household's assets is $50,000 or below.

When the market value of the asset is greater than $50,000, HC will verify the market value of the asset using the Alternative Verification Hierarchy.

Each household will be required to complete one asset self-certification at admission and at each regular recertification.

Third-party verification of assets every 3 years is not required.

8.8.1 Assets Disposed of for Less than Fair Market Value

For assets disposed at less than fair market value in the two years preceding the effective date of admission or the certification, HC will accept a self-certification from the household including a certification regarding the assets disposed, the date of disposition and the amount received for the asset.

8.8.2 Real Property Ownership

Both at admission and reexamination, HC will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. HC reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, HC will obtain third-party verification of the following factors:

- Whether the family has the legal right to reside in the property;
- Whether the family has effective legal authority to sell the property; and
- Whether the property is suitable for occupancy by the family as a residence.

However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, HC will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

8.8.3 Federal Tax Refunds or Refundable Tax Credits

Note: the following section is only applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to implementation, the following does not apply.

[24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]

HC will not verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $50,000 (adjusted annually for inflation). However, HC will verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $50,000. HC will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

8.9 VERIFICATION OF MANDATORY DEDUCTIONS

Policies in this section cover verification of mandatory deductions. See Adjusted Income for more information on deductions for the purposes of calculating annual income and rent.

8.9.1 Dependent and Elderly Disabled Households

HC will verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

8.9.2 Medical Expenses

Unreimbursed medical expenses will be verified through written third-party documents provided by the family, such as pharmacy printouts or receipts, or written third-party forms if the family is unable to provide acceptable documentation.

HC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. HC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

In addition, HC will verify that:

- The household is eligible for the deduction;
- The costs to be deducted are qualified medical expenses;
- The expenses are not paid for or reimbursed by any other source; and
- Costs incurred in past years are counted only once.

The family may be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

When anticipated costs are related to ongoing payment of medical bills incurred in past years, HC will verify:

- The anticipated repayment schedule;
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

Before placing bills and documentation in the tenant file, HC will redact all personally identifiable information. If HC receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or

severity of the person's disability, HC will immediately dispose of this confidential information; this information will never be maintained in the individual's file. HC will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification.

8.9.3 Disability Assistance Expenses

HC will verify that the family is eligible to deduct unreimbursed disability assistance expenses. HC will allow a family to deduct unreimbursed disability assistance expenses after verifying that:

- The family member for whom the expense is incurred is a person with disabilities;
- The expense permits a family member, or members, to work;
- The expense is not reimbursed from another source.

Attendant Care

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

8.9.4 Child Care Expenses

In order to determine whether a household is eligible to deduct unreimbursed childcare expenses HC will verify that:

- The child is under 13 years of age;
- The costs claimed are not reimbursed;
- The costs enable a family member to pursue an eligible activity;
- The costs are for an allowable type of child care and

- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. HC will verify that the child being cared for (including foster children) is under the age.

Unreimbursed Expense

The family (and/or the care provider) will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

HC will verify that the deduction of the unreimbursed child care expenses enable a family member(s) to seek work, pursue education, or be gainfully employed.

HC will evaluate how the schedule for the claimed activity relates to the hours of care provided and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

- **Seeking Work:** If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by HC.
- **Furthering Education**: HC will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.
- **Gainful Employment**: HC will seek third-party verification of the work schedule of the person who is permitted to work by the child care. The documentation may be provided by the family.

Allowable Type of Child Care

HC will verify that the type of child care selected by the family is allowable.

HC will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

HC will verify that the child care provider is not an assisted family member. Verification will be made unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted. The actual costs the family incurs will be evaluated by HC for reasonableness to ensure that the costs are allowable.

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

8.9.5 Live-in Aide

Written verification will be required from a reliable, knowledgeable professional (such as a doctor, therapist or licensed social worker) that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to HC verification-at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

CHAPTER 9: INCOME AND ADJUSTED INCOME

9.1 OVERVIEW

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. HC will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under this policy. Once annual income has been established, HC will subtract from annual income deductions for which a family qualifies in order to determine adjusted income and calculate total tenant payment (TTP). Then, HC will consider the utility allowance, approved rent, payment standard, and all other relevant factors for determining HC subsidy and required family payment.

9.2 ANNUAL INCOME

[24 CFR 5.609]

Annual income includes:

- All amounts, not specifically excluded (as listed in Annual Income Exclusions);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household, co-head or spouse of the head of household;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds $50,000 (or the amount annually adjusted by HUD) and the actual returns from a given asset cannot be calculated (see Determining Income from Assets).

Generally, all income is included unless it is specifically excluded by regulation. However, while annual income includes *all amounts received,* that does not include the amount a family may be legally entitled to, but did not receive (such as the amount court-ordered child support that is not received by the family). Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from the net family assets. Further, annual income includes income from all family members, even if the family member is temporarily absent from the unit (see Income of Temporarily Absent Family Members).

9.3 ANNUAL INCOME EXCLUSIONS

Income received by all family members must be included unless specifically excluded by the regulations or an approved MTW waiver. The head of household is responsible to report changes in family composition in accordance with HUD regulations and HC policies. Some requirements concerning excluded income depend on the household member. The chart below summarizes how household composition affects income determinations.

Household Member Type	Income Excluded
Head, spouse, co-head and adult family members	All sources of income specifically excluded by the regulations

Household Member Type	Income Excluded
Minor family members	Earned income of children under the age of 18
Full-time students 18 years of age or older (who are not the head, co-head, or spouse)	Earned income in excess of the dependent deduction
Live-in aides	Income from all sources (earned and unearned)
Foster child/foster adult	Income from all sources (earned and unearned)

Annual income does not include the following:

1. Any imputed return on an asset when net family assets total $50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined. (Pursuant to HC's ***MTW Policy*** noted in: **General Calculation of Asset Income**).
2. The following types of trust distributions:
    a. For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):
        i. Distributions of the principal or corpus of the trust; and
        ii. Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
    b. For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
3. Earned income of children (including foster children) under the age of 18 years;
4. Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments;
5. Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
6. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
7. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled;
8. Income of a live-in aide, foster child, or foster adult as defined in §5.403 and 5.603, respectively;
9. Any assistance that section 479B of the Higher Education Act of 1965, as amended, requires to be excluded from a family's income including Bureau of Indian Affairs/Education student assistance programs (see also Student Financial Assistance);

a. If the amount of this excluded assistance equals or exceeds the amount of actual covered costs described under item 10 below, none of the assistance described below is excluded as income.

b. If the amount of this excluded assistance is less than the amount of actual covered costs described under item 10 below, staff will exclude the lower of:

    i. The total amount of student financial assistance received under item 10, or

    ii. The amount by which the actual covered costs (as described below) exceed the assistance excluded under item 9.

10. Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit, and expressly for a student who is not the head of household or spouse. (See also Student Financial Assistance).

    a. *Student financial assistance* means a grant or scholarship received from:

        i. The federal government;

        ii. A state, tribal, or local government;

        iii. A private foundation registered as a nonprofit;

        iv. A business entity; or

        v. An institution of higher education.

    b. *Student financial assistance* does not include:

        i. Any assistance that section 479B of the Higher Education Act of 1965, as amended, requires to be excluded from a family's income (as noted above);

        ii. Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded);

        iii. Gifts, including gifts from family or friends; or

    c. Student financial assistance must be:

        i. Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

        ii. Expressly to assist a student with the costs of higher education; or

        iii. Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

    d. Student financial assistance may be paid directly to the student or to the educational institution on the student's behalf.

e. The student financial assistance exclusion applies to both part-time and full-time students.

11. Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, *baby bond* accounts created, authorized, or funded by Federal, State, or local government.

12. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (see Military Pay);

13. Certain amounts received that are related to participation in the following programs:

    a. Amounts received under HUD-funded training programs (i.e., Step-up program: excludes stipends, wages, transportation payments, child care vouchers for the duration of the training);

    b. Amounts received by a person with disabilities that are disregarded for a limited time for purposes of Supplemental Security Income and benefits that are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

    c. Amounts received by a client in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) to allow participation in a specific program;

    d. Amounts received under a client services stipend (not to exceed $200/month). A client service stipend is a modest amount received by a resident for performing a service for HC or the owner, on a part-time basis, that enhances the quality of life in the development. Such services may include but are not limited to, fire patrol, hall monitoring, lawn maintenance, and client initiatives coordination; or

    e. Incremental earnings and/or benefits to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with the local government), and training of family members as client management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.

14. Reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

15. Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611 and as referenced in the Dependent Deduction section of this Plan.

16. Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611 and as referenced in the Dependent Deduction section of this Plan.

17. Deferred periodic payments of Supplemental Security Income and Social Security benefits that are received in a lump sum payment or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (see also Lump-Sum Payments for the Delayed Start of a Periodic Payment).

18. Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

19. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling apartment;

20. Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit;

21. Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car);

22. Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law;

23. **Federally Mandated Exclusions:** amounts specifically excluded by any other federal Statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the United States Housing Act of 1937. A notice will be published by HUD in the Federal Register identifying the benefits that qualify for this exclusion. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. It includes:

    a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)); this exclusion also applies to assets;

    b) Payments, including for supportive services and reimbursement of out-of-pocket expenses, for volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(f)(1), 42 U.S.C 5058) are excluded from income except that the exclusion shall not apply in the case of such payments when the Chief Executive Officer of the Corporation for National and Community Service appointed under 42 U.S.C. 12651c determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)). This exclusion also applies to assets;

    c) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)); this exclusion also applies to assets;

    d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506); this exclusion also applies to assets;

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1));

f) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6); this exclusion also applies to assets;

g) The first $2,000 of per capita shares received from judgment funds awarded by the National Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands. This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407-1408); this exclusion also applies to assets;

h) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965 (20 U.S.C 1070), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).

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

j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement *in In Re Agent Orange Product Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.); this exclusion also applies to assets;

k) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420 section 9(c)); this exclusion also applies to assets;

l) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)); this exclusion also applies to assets;

n) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409);

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Pub. L. 95-433 section 2); this exclusion also applies to assets;

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

q) Any allowance paid to children of Vietnam veterans born with spinal bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean and Thailand service veterans born with spinal bifida (38 U.S.C. 1821-22) is excluded from income and assets (38 U.S.C 1833(c));

r) Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)); this exclusion also applies to assets;

s) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2));

t) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC). This exclusion also applies to assets;

u) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (Pub. L. 101-503 section 8(b)); this exclusion also applies to assets;

v) Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in monthly prospective amounts (42 U.S.C. 1437a(b)(4));

w) Any amounts:

   i. not actually received by the family,

   ii. that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and

   iii. received for service-connected disability under 38 U.S.C. chapter 11 or dependency and indemnity compensation under 38 U.S.C. chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.);

x) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in case entitled, *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.) for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291 section 101(f)(2); this exclusion also applies to assets;

y) Any amounts in an *individual development account* are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income as provided by the Assets for Independence Act, as amended (42 U.S.C 604(h)(4));

z) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in Notice PIH 2013–1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and

are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013–1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407);

aa) Federal assistance for a major disaster and emergency received by individuals under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as mended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)); this exclusion also applies to assets;

bb) Any amount in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09/H 2019–06 or subsequent or superseding notice is excluded from income and assets; and

cc) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.

24. Replacement housing gap payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing gap payments;

25. Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

    a. Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

    b. Direct Federal or State payments intended for economic stimulus or recovery.

    c. Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

    d. Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

    e. Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

f. Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

g. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

26. Civil rights settlements or judgments, including settlements or judgments for back pay;

27. Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family;

28. Income earned on amounts placed in a family's Family Self Sufficiency Account;

29. Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

    a. Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

    b. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

9.4 DETERMINING ANNUAL INCOME

9.4.1 Determining Income at Admission and Interims

[24 CFR 5.609(c)(1)]

At admission and for interim recertifications, HC will use anticipated annual income (current income) for the upcoming 12-month period following the family's admission or interim recertification effective date.

When HC cannot readily anticipate income based upon current circumstances, HC may use actual income received or earned within the last 12 months of the admission or interim recertification effective date. A clear rationale for this determination will be documented in the file. However, the family may provide verification documenting why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases HC will calculate annual income using current circumstances and then, should the change in income require HC to conduct an interim reexamination, conduct an interim reexamination in accordance with HC policy.

9.4.2 Determining Income at Regular Recertifications

[24 CFR.609(c)(2); Notice PIH 2023-27]

Policies regarding the verification and calculation of income may differ according to whether the household is in the MTW Stepped Rent Treatment group, Control group, or the Excluded group, or is a non-MTW household:

MTW Stepped Rent Treatment Group

MTW Policy

MTW Waiver: 1.d. – Stepped Rent

Approval Date: FY 2022

Applicable to: MTW Stepped Rent Treatment Group

Description: At regular recertification, gross income is determined retrospectively:

- The retrospective period is the 12-month period ending 120 days before the recertification effective date.
- The retrospective period for recertifying households applies to the first recertification following study enrollment and for each subsequent triennial recertification.
- The period always begins on the first of the month and ends the last day of the month. The prior/retrospective period is fixed; it does not change or update after it is communicated with the household (even if the effective date is moved to accommodate a move at the first certification following enrollment).
- HC will count all required types of income sources when determining retrospective income and will count the actual income amount received during the retrospective period. Income is not averaged and annualized.
- If income from any source began partway through the prior/retrospective period, use the actual amount received during the prior/retrospective period.
- Income from TANF, UI, SSI, SSDI, or court-ordered child support will not be included if it ends partway through the prior/retrospective period.
- If a household member earned income prior to age 18 during the prior/retrospective period it will not be included.
- If a household member is verified as a full-time student at the time of recertification:
    - Their earned income will not be included, and
    - They will retain their full-time student designation until the family's next triennial recertification.

MTW Control and Excluded Groups, and non-MTW households

- **Prior to implementation of HOTMA:**
    - HC will generally determine annual income based on current/anticipated income. Generally, anticipated income is calculated by annualizing the income within the last two months of the retrospective period.
- **Upon implementation of HOTMA:**

Note: the following two bullet points are only applicable upon full implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to full implementation, the following does not apply.

    - HC will determine the family's income for the previous 12-month period and use this amount as the family income; however, adjustments to reflect current income must be made.
    - Any change of income since the family's last regular reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with HC policies and HUD regulations, will be considered. If there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. See REEXAMINATIONS AND CONTINUED OCCUPANCY.

9.5 DETERMINING CERTAIN TYPES OF INCOME

9.5.1 Wages and Related Compensation

[24 CFR 5.609(a); Notice PIH 2023-27]

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies.

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

Seasonal and Day Laborer Income

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

A *seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

To determine annual income for individuals who have seasonal or day labor income at admission and regular recertification, HC will use past actual income received or earned within the last 12 months of the determination date. Therefore, interim reexaminations will not be completed when circumstances change for family members with a pattern of seasonal income that is expected to continue.

Earned Income of Full-Time Students

[24 CFR 5.609(b)(14)]

Earned income from verified full-time students (see Student Status Verification) who are not the head, co-head or spouse is excluded.

Earned Income of Minors, Live-in Aides, and Foster Children/Adults.

[24 CFR 5.609(b)(3)]

Earned income from minors, live-in aides, foster children, and foster adults is excluded from income. See Annual Income Exclusions.

Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are included as income except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

9.5.2 Self-Employment Income

[24 CFR 5.609(b)(28); Notice PIH 2023-27]

Annual income includes net income from the operation of a business or profession.

- *Net income* is gross income minus business expenses that allows the business to operate.
- *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Net income does not include:

- Expenditures for business expansion;
    - *Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations;
- Amortization of capital indebtedness;
    - *Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means HC will allow as a business expense interest, but not principal, paid on capital indebtedness; or
- Depreciation of assets on an accelerated basis (depreciation of assets based on straight line depreciation is allowable).

However, any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family. Acceptable investments in a business include cash loans and contribution of assets

or equipment. Investments do not include the value of labor contributed to the business without compensation.

If a family reports gross income from a business or self-employment income and does not claim and/or verify any expenses, the gross income will be considered the net income.

Negative Business Income

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

Co-Owned Businesses

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

Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business' assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

Note, however, that for determining whether the family has a present ownership interest in disqualifying real property, whether the family owns the real property through an LLC or in their own name is not decisive. If the family has a present ownership interest in real property and has a legal right to reside in it, the effective legal authority to sell it, and it is considered suitable for their occupancy as a residence, that ownership interest will be disqualifying per the Asset Restrictions. There may be circumstances where the family does not have the effective legal authority to sell the real property due to the structure of their business. Receipt of rental income itself is not a relevant deciding factor for asset limitation compliance, however.

Independent Contractors

Income received as an independent contractor is included in annual income as self-employment income (unless otherwise excluded by regulation), even if the source, date, or amount of the income varies. See the GLOSSARY OF TERMS AND DEFINITIONS for the definition of Independent Contractor.

9.5.3 Periodic Payments

[Notice PIH 2023-27]

Periodic payments are forms of income received on a regular basis. These will be included unless excluded under Annual Income Exclusions.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly). Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b) as updated for HOTMA, and thus they are included in annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

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

[24 CFR 5.609(b)(16)]

HC will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

When a delayed-start payment is received that is to be included and the family and reports this during the period in which HC is processing a regular recertification, HC will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time HC is processing a regular recertification, then HC will consider whether the amount meets the threshold to conduct an interim reexamination. If so, HC will conduct an interim in accordance with policies in this Plan. If not, HC will consider the amount when processing the family's next annual recertification.

Retirement Income

[24 CFR 5.609(b)(26); Notice PIH 2023-27]

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets. However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

Social Security and SSI

[Notice PIH 2018-24]

HC is required to use the gross benefit amount to calculate annual income from Social Security benefits, including Supplemental Security Income (SSI).

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. Effective the day after the SSA has announced the COLA, HC is required to factor in the COLA when determining Social Security and SSI annual income for regular and interim recertifications of family

income that have not yet been completed and will be effective January 1 or later of the upcoming year. The federal COLA does not apply to state-paid disability benefits.

When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, HC must use the gross amount of the income, prior to the reduction, to determine a family's annual income. However, when the SSA overpays an individual, resulting in withholding or deduction from their benefit amount until the overpayment is paid in full, HC must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Child Support and Alimony

HC will include as annual income only those child support and/or alimony payments that are actually received by the family. If no payments have been made in the last 30 days, HC will not include child support and/or alimony in annual income. Otherwise:

- At admission or interim recertification, HC will include averaged and annualized payments (excluding lump sum payments) received over the last six months, unless the family can verify that they expect to receive a different amount going forward.
- At regular recertification, HC will calculate child support and/or alimony payments according to Determining Income at Regular Recertifications.

Public Assistance

Public (or welfare) assistance—including Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments—is included as annual income.

When a welfare agency imposes a sanction that reduces a resident family's TANF income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, HC must include in annual income the *imputed* welfare income; however, this requirement does not apply to applicant households. HC must request verification of the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction. This requirement does not apply to reductions in welfare benefits:

1. At the expiration of the lifetime or other time limit on the payment of welfare benefits,
2. If a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or
3. Because a family member has not complied with other welfare agency requirements.

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero.

Trusts

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

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

See additional information in Annual Income Exclusions and Trusts as Assets.

Nonrecurring Income

[24 CFR 5.609(b)(24) and Notice PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. See Annual Income Exclusions.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming regular recertification period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

9.5.4 Student Financial Assistance

[FR Notice 2/14/23 and Notice PIH 2023-27]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students.

1. Title IV HEA Assistance: any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Examples of assistance under title IV of the HEA include:
    a. Federal Pell Grants;
    b. Teach Grants;
    c. Federal Work Study Programs;
    d. Federal Perkins Loans;
    e. Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
    f. Bureau of Indian Affairs/Education student assistance programs
2. Other Student Financial Assistance: Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher

education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

HC will verify tuition and fees according to its verification policies. See Verification of Student Financial Assistance and Fees. See Annual Income Exclusions for the portion of student financial assistance that is excluded. See also HUD's HOTMA Student Financial Assistance Resource Sheet.

9.5.5 Income of Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit. See policies on Temporarily and Permanently Absent Family Members for definition of *Temporarily Absent*.

9.6 DETERMINING INCOME FROM ASSETS

Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

However, see the following for additional information:

- The full definition of Net Family Assets in the GLOSSARY OF TERMS AND DEFINITIONS;
- The section on Exclusions from Assets for what is not considered an asset; and
- The section on Asset Restrictions (once fully implemented), under which a household may be disqualified from admission or continued occupancy.

9.6.1 General Calculation of Asset Income

Income from assets is always anticipated, irrespective of the income reexamination type.

MTW Policy

MTW Waiver: 1.w. – Alternative Income Inclusions/Exclusions

Approval Date: 12/10/2024

Applicable to: All households

Description: HC will exclude the income from assets where the market value of the household's combined assets is $50,000 or below.

Where the market value of the asset is greater than $50,000, annual income shall include the greater of the actual income derived from all family assets or a percentage of the value of such assets based on the HUD-established passbook savings rate.

9.6.2 Treatment of Specific Assets

Bank Accounts

HUD considers bank accounts—checking, savings, credit union accounts—as non-necessary items of personal property to be included as assets. HC will use the current balance of each account in determining its market value.

Investment Accounts

[24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks, bonds, saving certificates, and money market funds non-necessary items of personal property to be included as assets. HC will use the current balance of each account as listed on its most recent statement as its market value.

Lump-Sum Additions to Family Assets

[24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset.

Life Insurance

[FR Notice 2/14/23 and Notice PIH 2023-27]

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. HC will use the policy's current surrender value as the market value of the asset.

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

Trusts as Assets

[24 CFR 5.609(b)(2) and 5.603(b)(4)]

There are two types of Trusts, *revocable* and *irrevocable*.

Irrevocable trusts—which include special needs trusts—are not under the control of any member of the family or household are not included as assets. HC will also not include as income and amounts earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in family assets. In this case, HC will:
    - Exclude as income any distributions from the trust to the family;
    - Include all imputed income from the assets if the family's total assets exceed $50,000.
- Revocable trusts that are **not** under the control of the family are excluded from family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. For the revocable trust to be considered excluded from family assets, no family or household member may be the account's trustee.

ABLE Accounts

[24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs.

HC will exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

Luxury Items and Other Non-Necessary Personal Property

In determining the value of non-necessary personal property where the market value cannot be readily quantified (such as through a financial statement), HC will use the family's estimate of the value. HC may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

9.6.3 Jointly Owned Assets

[Notice PIH 2023-27]

Note: the following section is applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104).

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

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

See also Co-Owned Businesses and Assets Owned by a Business Entity in this chapter.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

9.6.4 Assets Disposed of for Less than Fair Market Value

[24 CFR 5.603(b)(2)]

HC will include the value of any business or family assets disposed of by a family for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or recertification, as applicable, in excess of the consideration received for the asset. However, HC will not include the value of assets disposed of for less than fair market value:

- Unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000;

- If they are disposed of as part of a separation or divorce settlement and the family receives important consideration not measurable in dollar terms; and/or
- When the disposition is the result of a foreclosure or bankruptcy sale.

See also Assets Owned by a Business Entity in this chapter.

Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

9.6.5 Exclusions from Assets

[Notice PIH 2023-27]

Note: the following section is only applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to implementation, the following does not apply.

The following are excluded from the calculation of net family assets:

1. The value of necessary items of personal property;
2. The combined value of all non-necessary items of personal property if the combined total value does not exceed $50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers);
3. The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals;
4. The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located;
5. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability;
6. The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any baby bond account created, authorized, or funded by Federal, State, or local government.
7. Interests in Indian trust land;
8. Equity in a manufactured home where the family receives assistance under 24 CFR 982;
9. Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR 982;

10. Family Self-Sufficiency Accounts;
11. Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family; and
12. The value of Achieving a Better Life Experience (ABLE) accounts.

9.6.6 Necessary and Non-Necessary Property

[24 CFR 5.603(b)(3)(i)]

Note: the following section is only applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to implementation, the following does not apply.

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts. Personal property may be necessary or non-necessary, which determines whether they are considered to be assets.

- *Necessary personal property* are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. This may include:
    - Personal effects (such as items that are ordinarily worn or utilized by the individual),
    - Items that are convenient or useful to a reasonable existence (such as a car used for commuting),
    - Items that support and facilitate daily life within the family's home.
    - Items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability.
- The value of necessary items of personal property is excluded from the calculation of net family assets.
- Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property, such as bank accounts, other financial investments, or luxury items. These items are considered assets for HUD purposes.
    - The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds $50,000 (adjusted annually).
    - When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property:

Necessary Personal Property	Non-Necessary Personal Property

Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care–related supplies Musical instruments used by the family Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as gems/precious metals, antique cars, artwork, etc.

9.7 ADJUSTED INCOME

Adjusted income is calculated by subtracting allowable deductions and allowances from annual income.

9.7.1 Dependent Deduction

An allowance is deducted from annual income for each dependent, which is defined as any family member other than the head, spouse, or co-head who is:

- Under the age of 18,
- 18 or older and is a person with disabilities, or

- 18 or older and a full-time student.

Foster children, foster adults, and live-in aides are never considered dependents.

The amount of the deduction is currently $480. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be adjusted annually by HUD, rounded to the next lowest multiple of $25.

9.7.2 Elderly or Disabled Family Deduction

A single deduction is taken for any elderly or disabled family. An elderly family is a family whose head, spouse, co-head, or sole member is 62 years of age or older. A disabled family is a family whose head, spouse, co-head, or sole member is a person with disabilities.

The amount of the deduction is currently $400. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be increased to $525 and will be adjusted annually by HUD, rounded to the next lowest multiple of $25.

9.7.3 Health and Medical Care Expense Deduction

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

The threshold is currently set at 3 percent of annual income. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be increased to 10 percent of annual income.

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

Medical expenses include unreimbursed expenses for:

- Any costs incurred in the diagnosis, cure, mitigation, treatment or prevention of disease;
- Payment for treatments affecting any structure of function of the body; and
- Medical insurance and long-term care premiums that are paid or are anticipated to be paid for the applicable period.

The most current IRS Publication 502, Medical and Dental Expenses, will be used as a guide to determine the costs that qualify as medical expenses. Over-the-counter products will not be eligible for deductions as medical expenses unless they are accompanied by a doctor's prescription.

Before placing bills and documentation in the tenant file, HC will redact all personally identifiable information. If HC receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, HC will immediately dispose of this confidential information; this information will never be maintained in the individual's file. HC will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. To be considered by HC for the purpose of determining a deduction from income, the expenses claimed must be unreimbursed and verified as allowable and for the benefit of a family member.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, HC will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

See Health and Medical Care and Disability Assistance Expense Hardship in the HARDSHIP POLICIES chapter for information about hardship exemptions.

9.7.4 Disability Assistance Expenses Deduction

Reasonable, unreimbursed expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they:

- Are necessary to enable a family member 18 years or older to work;
- Are not paid to a family member or reimbursed by an outside source;
- In combination with any medical expenses, exceed the HUD-established percent of annual income threshold; and
- Do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

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

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

The family must identify the family member enabled to work as a result of the disability assistance expenses. In evaluating the family's request, HC will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

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

Eligible Auxiliary Apparatus

Auxiliary apparatus items to allow an adult family member to work may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

Eligible Attendant Care

The family identifies and HC verifies the type of attendant care that is appropriate for the person with disabilities. Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

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

If the care attendant also provides other services to the family, HC will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Disability Expense Payments to Family Members

No disability expenses may be deducted for payments to a member of a client family. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

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

See Health and Medical Care and Disability Assistance Expense Hardship in the HARDSHIP POLICIES chapter for information about hardship exemptions.

9.7.5 Child Care Expense Deduction

A family may receive a deduction of amounts to be paid by the family for the care of children (including foster children) under 13 years of age for the period for which annual income is computed, but only when such care is necessary to enable a family member to be gainfully employed, seek employment, or to further his/her education.

Amounts deducted must be unreimbursed expenses. The deduction will include the total unreimbursed childcare expense; however, the amount deducted may not exceed:

- The amount of income earned by the family member released to work; or
- An amount determined to be reasonable by HC when the expense is incurred to permit education.

Eligible and Ineligible Child Care Expenses

The type of care to be provided is determined by the assisted family. Allowable expenses may also include those incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) and/or payments for child care to relatives who do not live in the unit. HC will not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care

Child care expenses do not include:

- Child support payments made to another on behalf of a minor who is not living in an assisted family's household;

- For school-age children, costs attributable to public or private school activities during standard school hours;
- The costs of general housekeeping and personal services; and/or
- Expenses paid to a family member who lives in the family's unit.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, HC will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

See Child Care Expense Hardship in the HARDSHIP POLICIES chapter for information about hardship exemptions related to child care.

CHAPTER 10: TENANT RENT AND SUBSIDY DETERMINATION

10.1 OVERVIEW

This chapter contains policies related to tenant rent and subsidy determinations for the Housing Choice Voucher (HCV) program. Subsidy and rent are determined according to whether a household is in the MTW Stepped Rent Treatment, MTW Control, or MTW Excluded Group, or is a non-MTW household (i.e. VASH, Mainstream, Mod Rehab, etc.).

- **MTW Control & Excluded Groups, and Non-MTW Households:** tenant rent and subsidy determinations are largely determined based on HCV program regulations; however, there are some instances where MTW waivers may be applied, as identified throughout this Plan.
- **MTW Stepped Rent Treatment Group:** HC has received HUD approval to implement a Stepped Rent model which reflects MTW waivers regarding income, adjusted income and rent.

10.2 TOTAL TENANT PAYMENT (TTP): MTW CONTROL AND EXCLUDED GROUPS, AND NON-MTW HOUSEHOLDS

10.2.1 Total Tenant Payment (TTP)

Once annual adjusted income has been established, HC will calculate the Total Tenant Payment (TTP) for the household. TTP is not the same thing as the tenant rent to the owner; however, it may be the same as the tenant rent to owner in some cases.

For households in the MTW Control and Excluded groups, as well as non-MTW households, TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income,
- 10 percent of the family's monthly gross income,
- The minimum rent established by HC.

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

10.2.2 Minimum Rent

HC has established a minimum rent of $50 per month for HCV programs, other than VASH.

VASH has no minimum rent.

For PSH programs, the minimum rent will be $25.

See Minimum Rent Hardship in the HARDSHIP POLICIES chapter for more information on hardship exemptions related to minimum rent.

10.3 TOTAL TENANT PAYMENT (TTP): MTW STEPPED RENT TREATMENT GROUP HOUSEHOLDS

Once annual income has been established, HC will calculate the Total Tenant Payment (TTP) for the household. TTP is not the same thing as the tenant rent to the owner; however, it may be the same as the tenant rent to owner in some cases.

For households in the MTW Stepped Rent Treatment Group, TTP is based on a HUD-approved Stepped Rent model.

MTW Policy

MTW Waiver: 1.d. – Stepped Rent

Approval Date: FY 2022

Applicable to: MTW Stepped Rent Treatment Group households

Description: See all sections below:

- TTP Determination at Initial Stepped Rent Enrollment
- Annual Stepped Rent Increases
- Triennial Reexaminations
- Hardship Rent Determinations
- Returning Study Households
- Zero-HAP Households

10.3.1 TTP Determination at Initial Stepped Rent Enrollment

For households enrolled in the MTW Stepped Rent Treatment Group, TTP will be established at initial enrollment based on the higher of 30% of monthly adjusted income or the minimum rent of $50.

The calculation of adjusted monthly income depends on whether the household is a current/existing HC-assisted household or if they are a new admission household (see Determining Annual Income for more information):

- **Current/Existing Households.** TTP is set at the higher of:
    - 30% of the family's monthly adjusted income (based on **retrospective** calculation of annual income – see Determining Income at Regular Recertifications - MTW Stepped Rent Treatment Group); or
    - The minimum rent of $50
- **New admission households (including ports-in).** TTP is set at the higher of:
    - 30% of the family's monthly adjusted income (based on **current/anticipated** annual income – see Determining Income at Admission and Interims); or
    - The minimum rent of $50

See Rent Burden Hardship at Enrollment in the MTW Hardships section more information about households who may qualify for a hardship at initial enrollment.

10.3.2 Annual Stepped Rent Increases

The Stepped Rent policy will increase participant rents annually by an amount unrelated to each household's income. The annual stepped rent increase will be a specific dollar amount, by bedroom size.

Rent increases are set at or below 2% of FMR depending on the bedroom size for household. These amounts will remain fixed for the 6-year study period. Annual step increases are as follows:

Bedroom Size	**0**	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**
FMR	$924	$1,112	$1,327	$1,843	$2,066	$2,375	$2,732	$3,141	$3,612
Annual Increase in TTP	+$19	+$23	+$27	+$37	+$42	+$48	+$48	+$48	+$48

The household's TTP will automatically increase by the established amount listed above based on the household's bedroom size, without the need for an annual income reexamination (with exceptions for hardships – see MTW Hardships – and triennial income reexaminations).

10.3.3 Triennial Reexaminations

Households in the MTW Stepped Rent Treatment Group are recertified on a triennial basis with no interim reexaminations (see MTW policies related to Frequency of Regular Reexaminations and Interim Reexaminations). At the triennial reexamination, HC will document household income and any changes in household composition. However, the triennial income reexamination will not affect the household's rent, and the annual stepped rent increase will continue to apply, unless the household is eligible for a hardship determination.

10.3.4 Hardship Rent Determinations

A household may be eligible for a hardship rent determination if their rent burden exceeds 40% of their current/anticipated total adjusted income and for other circumstances outlined in HC's Hardship Policy. The remedy or hardship rent will equal 40% of the household's current/anticipated total annual adjusted income. See MTW Hardships for more information.

10.3.5 Returning Study Households

If a household completes study enrollment and is randomly assigned to a rent rule group, then ports out or exits the program, and then returns to HC, they are to be served according to their original randomly assigned rent rules group status (regardless of whether they are a billed or absorbed port-in).

For example, if the household was under the Stepped Rent Policy and ported out, they would continue to be under the Stepped Rent Policy if they ported back in. Household will start out paying rent equal to their total current adjusted income or a minimum rent of $50 (whichever is larger). After year 1, and each year after each household's monthly total tenant payment will automatically increase by the established amount based on their voucher size without the need for an annual income reexamination (with exceptions for hardships and triennial income reexaminations).

10.3.6 Zero-HAP Households

If a HCV household's current gross income is over 120% of AMI at the first recertification following study enrollment or at a subsequent triennial eligibility check, this designates the household as a zero-HAP household. The household gets a 180-day zero HAP grace period. At the end of that grace period, the household exits the voucher program. However, if the zero-HAP rent (or a loss of income) causes a rent burden above 40% of current gross income, the household can request and receive a hardship. A hardship would halt the HCV termination process.

If a household progresses all the way through the stepped rent schedule, at the end of the stepped rent schedule the 180 day-rule of zero HAP will apply, and the family will be terminated/graduated from the program at the end of the 180-day period. If the family is not paying the full contract rent, they will continue to receive a subsidy.

10.4 TENANT RENT & SUBSIDY DETERMINATION: ALL HOUSEHOLDS / PROGRAM TYPES

Once the TTP has been established, HC will calculate the HC subsidy / Housing Assistance Payment (HAP), the tenant rent, and utility reimbursement (if applicable). The following sections apply to all households, regardless of their program type or MTW group.

10.4.1 Family Share

The family share is the family's contribution toward the gross rent.

For a family selecting a unit where the gross rent is at or below the payment standard for the family, the family share will be the same as the TTP.

For a family selecting a unit where the gross rent exceeds the payment standard for the family, the family share is the TTP plus any amount by which the gross rent exceeds the payment standard.

10.4.2 Maximum Initial Rent Burden

At initial occupancy and upon transfer to a new unit, HC will not approve the tenancy if the gross rent is above the payment standard resulting in a family share that exceeds the maximum initial rent burden, which is 40 percent of adjusted monthly income, even if the rent is reasonable.

HC may approve a unit if the gross rent is above the payment standard, but does not result in a tenant portion that exceeds the 40 percent of monthly adjusted income.

10.4.3 HC Subsidy / Housing Assistance Payment (HAP)

HC will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of:

- The applicable payment standard for the family minus the family's TTP, or
- The gross rent for the family's unit minus the TTP.

The gross rent for the unit is the sum of the approved contract rent and the applicable utility allowance (see Utility Allowances for more information).

10.4.4 Prorated Assistance for Mixed Families

A *mixed household* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible household members. HC will prorate the assistance provided to a mixed household. HC will first determine assistance as if all household members were eligible and then prorate the assistance according to the regulatory requirement at 24 CFR 5.520.

Mixed families are not eligible to participate in the MTW Stepped Treatment Group.

10.4.5 Tenant Rent to Owner

Rent to owner is the greater of:

- The Payment Standard less the HAP; or.
- The gross rent less the HAP.

10.4.6 Utility Reimbursement

If the amount of the utility allowance exceeds the total tenant payment, HC may pay the amount of such excess to either to the family or directly to the utility provider, and may change whether the payment is made to the family or to the utility provider at HC's discretion.

MTW Policy

MTW Waiver: 1.n. – Utility Reimbursements

Approval Date: FY 2026

Applicable To: All households

- VASH: pending approval from HUD – date TBD

Description: This activity waives the requirements of sections 8(o)(2)(A)-(C) of the 1937 Act and 24 CFR 982.514 and 983.353(d) for HCV households to allow HC to eliminate utility reimbursement payments in the HCV program when the utility allowance is greater than the total tenant payment.

CHAPTER 11: INSPECTIONS

11.1 OVERVIEW

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) and Project Based Voucher (PBV) assistance meet HUD's minimum housing quality standards as defined at 24 CFR 982.4 and 5.703 and comply with HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) regulations and standards.

All units must pass an inspection prior to the approval of a lease (with some exceptions) and at least once every 24 months during the term of the HAP contract, and at other times as needed, to determine that the unit meets NSPIRE standards.

Provided they meet certain requirements, HC is authorized to establish some additional local requirements, as noted in this Administrative Plan. The use of the term *NSPIRE* in this plan refers to the combination of both HUD and HC-established requirements. However, state and local codes, compliance is not part of the determination of whether a unit passes the NSPIRE standards.

11.2 NSPIRE STANDARDS

11.2.1 Inspectable Areas

[24 CFR 5.703(a)(1) and 24 CFR 5.705(a)(2)]

NSPIRE defines the inspectable areas for inspection under the standards as inside, outside and unit. However, the inspection requirement for the HCV and PBV programs only applies to units occupied or to be occupied by HCV or PBV participants and common areas and exterior areas which either service or are associated with such units.

11.2.2 Affirmative Habitability Requirements

[24 CFR 5.703(b), (c), and (d)]

NSPIRE provides for minimum, or affirmative, habitability requirements for each area (unit, inside, outside), as detailed below.

The inside, outside and unit must be free of health and safety hazards that pose a danger to residents. Types of health and safety concerns include, but are not limited to carbon monoxide, electrical hazards, extreme temperature, flammable materials or other fire hazards, garbage and debris, handrail hazards, infestation, lead-based paint, mold, and structural soundness.

As of December 29, 2024 (the effective date of the Public and Federally Assisted Housing Fire Safety Act of 2022), smoke alarms must have either a sealed 10-year battery or be hard wired.

Affirmative Habitability Requirements: Inside

- Must include at least 1 battery-operated or hard-wired smoke detector, in proper working condition, on each level of the property.
- Must meet or exceed the carbon monoxide detection standards set by the Secretary through Federal Register notification.
- Any outlet installed within 6 feet of a water source must be GFCI protected.

- Must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
- Must have permanently mounted light fixtures in any kitchens and each bathroom.
- May not contain unvented space heaters that burn gas, oil or kerosene.

Affirmative Habitability Requirements: Outside

- Any outlet installed within 6 feet of a water source must be GFCI-protected.
- Must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.

Affirmative Habitability Requirements: Unit

- Must have hot and cold running water in the bathroom and kitchen, including an adequate source of safe drinking water in the bathroom and kitchen.
- Must include its own bathroom or sanitary facility that is in proper operating condition and usable in privacy. It must contain a sink, a bathtub or shower, and an interior flushable toilet.
- Must have at least one battery-operated or hard-wired smoke detector, in proper working condition, in the following locations:
    - On each level of the unit AND
    - Inside each bedroom or sleeping area AND
    - With 21 feet of any door to a bedroom measured along a path of travel AND
    - Where a smoke detector is installed outside a bedroom is separated from an adjacent living area by a door, a smoke detector must also be installed in the living area side of the door.
- If the unit is occupied by a hearing-impaired person, the smoke detectors must have an alarm system designed for hearing-impaired persons.
- Must have a living room and a kitchen area with a sink, cooking appliance, refrigerator, food preparation area and food storage area.
- Must have two working outlets or one working outlet and one permanent light fixture within all habitable rooms.
- Must have a permanently mounted light fixture in each bathroom and in the kitchen.
- Outlets within 6 feet of water source must be GFCI-protected.
- Must have permanently installed heating source.
- No units may contain unvented space heaters that burn gas, oil or kerosene.
- Must have a guard rail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
- Must have at least one bedroom or living/sleeping room for each two persons.

11.2.3 Modifications to Provide Accessibility

[24 CFR 100.203; Notice 2003-31; and Notice PIH 2014-02]

Under the Fair Housing Act of 1988 an owner must make reasonable accommodations in rules, policies, practices, or services if necessary for a person with disabilities to use the housing and must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit if such modification is necessary to afford the person with a disability full enjoyment of the premises. Such modifications are at the family's expense. The owner may, where it is reasonable to do so, require restoration of the unit to its original condition (reasonable wear and tear excepted) if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest- bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.

Modifications to units to provide access for a person with a disability must meet all applicable NSPIRE requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31]. See the FAIR HOUSING AND EQUAL OPPORTUNITY chapter of this Plan for additional information on reasonable accommodations for persons with disabilities.

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to HC for review.

11.2.4 Additional Local Requirements

[24 CFR 5.705(a)(3) and Notice PIH 2024-26, REV-1]

HC may impose variations to the NSPIRE standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to NSPIRE standards and approved variations must be added to this Plan.

11.2.5 Life Threatening Deficiencies

[Notice PIH 2024-26, REV-1 and FR Notice 7/14/17]

The following are a list of life-threatening deficiencies under NSPIRE:

Inspectable Item	Deficiency
Call-for-Aid System	System is blocked or pull cord is higher than 6 inches off the floor.
	System does not function properly
Carbon Monoxide Alarm	Carbon monoxide alarm is missing, not installed, or not installed in a proper location.
	Carbon monoxide alarm is obstructed.

Inspectable Item	Deficiency
	Carbon monoxide alarm does not produce an audio or visual alarm when tested.
Chimney	A visually accessible chimney, flue, or firebox connected to a fireplace or wood-burning appliance is incomplete or damaged such that it may not safely contain fire and convey smoke and combustion gases to the exterior.
	Chimney exhibits signs of structural failure.
Clothes Dryer Exhaust Ventilation	Electric dryer transition duct is detached or missing.
	Gas dryer transition duct is detached or missing.
	Electric dryer exhaust ventilation system has restricted airflow.
	Dryer transition duct is constructed of unsuitable material.
	Gas dryer exhaust ventilation system has restricted airflow.
Door – Entry	Entry door is missing.
Door – Fire Labeled	Fire labeled door is missing.
Egress	Obstructed means of egress.
	Sleeping room is located on the third floor or below and has an obstructed rescue opening.
	Fire escape is obstructed.
Electrical – Conductor, Outlet, and Switch	Outlet or switch is damaged.
	Exposed electrical conductor.
	Water is currently in contact with an electrical conductor.
Electrical – Service Panel	The overcurrent protection device is damaged.
Exit Sign	Exit sign is damaged, missing, obstructed, or not adequately illuminated.
Fire Escape	Fire escape component is damaged or missing.
Fire Extinguisher	Fire extinguisher pressure gauge reads over or under-charged.
	Fire extinguisher service tag is missing, illegible, or expired.
	Fire extinguisher is damaged or missing.
Flammable and Combustible Items	Flammable or combustible item is on or within 3 feet of an appliance that provides heat for thermal comfort or a fuel-burning water heater; OR Improperly stored chemicals.
Guardrail	Guardrail is missing or not installed.
	Guardrail is not functionally adequate.

Inspectable Item	Deficiency
Heating, Ventilation, and Air Conditioning (HVAC)	The inspection date is on or between October 1 and March 31 and the permanently installed heating source is not working or the permanently installed heating source is working and the interior temperature is below 64 degrees Fahrenheit.
	Unvented space heater that burns gas, oil, or kerosene is present.
	Combustion chamber cover or gas shutoff valve is missing from a fuel burning heating appliance.
	Fuel burning heating system or device exhaust vent is misaligned, blocked, disconnected, improperly connected, damaged, or missing.
Leak – Gas or Oil	Natural gas, propane, or oil leak.
Mold-like Substance	Presence of mold-like substance at extremely high levels is observed visually.
Smoke Alarm	Smoke alarm is not installed where required.
	Smoke alarm is obstructed.
	Smoke alarm does not produce an audio or visual alarm when tested.
Sprinkler Assembly	Sprinkler head assembly is encased or obstructed by an item or object that is within 18 inches of the sprinkler head.
	Sprinkler assembly component is damaged, inoperable, or missing and it is detrimental to performance.
	Sprinkler assembly has evidence of corrosion.
	Sprinkler assembly has evidence of foreign material that is detrimental to performance.
Structural System	Structural system exhibits signs of serious failure.
Toilet	Only 1 toilet was installed, and it is missing.
Water Heater	Chimney or flue piping is blocked, misaligned, or missing.
	Gas shutoff valve is damaged, missing, or not installed.

In addition to those listed under the NSPIRE standards, the following are considered life-threatening conditions:

- Utilities not in service, including no running hot water

11.2.6 Family and Owner Responsibilities

[24 CFR 982.404]

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	**HAP contracts executed or renewed June 6, 2024, or later**
Family Responsibilities	The family is responsible for correcting the following deficiencies: • Tenant-paid utilities not in service • Failure to provide or maintain appliances owned by the family • Damage to the unit or premises caused by a household member or guest beyond ordinary wear and tear. *Ordinary wear and tear* is defined as items which could not be charged against the tenant's security deposit under state law or court practice.	The family may be held responsible for the following deficiencies: • Tenant-paid utilities not in service • Failure to provide or maintain appliances owned by the family • Damage to the unit or premises caused by a household member or guest beyond ordinary wear and tear. *Ordinary wear and tear* is defined as items which could not be charged against the tenant's security deposit under state law or court practice. **If HC has waived the owner's responsibility to remedy the violation, the following applies:** • If the deficiency caused by the family is life-threatening, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 24 hours of notification. • For other family-caused deficiencies, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 30 calendar days of notification (or any HC-approved extension).

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	**HAP contracts executed or renewed June 6, 2024, or later**
Owner Responsibilities / Obligations	The owner must maintain the unit in accordance with NSPIRE regulations and standards. The owner is not responsible for a breach of the standards that is not caused by the owner, and for which the family is responsible. The owner is responsible for all NSPIRE violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family. If an owner fails to correct life-threatening conditions as required by HC, HC will enforce the NSPIRE standards in accordance with HUD requirements.	The owner must maintain the unit in accordance with NSPIRE regulations and standards. **In the case of a deficiency that HC determines is caused by the tenant (other than damage resulting from ordinary use), HC may waive the owner's responsibility to remedy the violation. The HAP to the owner shall not be withheld or abated if the owner responsibility has been waived.** However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family. **In addition, HC may terminate the family's assistance because of a NSPIRE breach (beyond damage resulting from ordinary use) caused by the tenant.**

11.2.7 Lead-Based Paint

Owners must comply with the requirements and timelines in 24 CFR Part 35 Subpart M—Tenant-Based Rental Assistance and Subpart H—Project-Based Assistance. Any deteriorated paint in target housing, or other lead-based paint hazard identified through a lead-based paint risk assessment or lead-based paint inspection is considered a violation of NSPIRE standards.

For the HCV program, Subpart M applies to units where a child under age six resides or is expected to reside, common areas that service that unit, and exterior painted surfaces associated with that unit or common areas. For project-based programs, Subpart H applies to assisted units and common areas of the property regardless of whether a child under age six resides or is expected to reside in the unit. NSPIRE does not alter any of the lead-based paint requirements in Part 35 for these programs.

Special Requirements for Children with Elevated Blood Lead Level

[24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

If HC is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, HC must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk

assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from HC, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325] and [24 CFR 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of NSPIRE standards and HC will take action to enforce owner compliance.

Reporting and Record Keeping for Children with Elevated Blood Lead Level

[24 CFR 35.1225(e); Notice PIH 2017-13]

Upon notification by the owner, HC will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days. Additionally, upon notification by the owner, HC will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

11.2.8 Violation of Space Standards

[24 CFR 5.703(d)(5)]

Units assisted under the HCV or PBV programs must have at least one bedroom or living/sleeping room for each two persons. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. Each habitable room must have two working outlets or one working outlet and a permanent light.

HUD defines a *habitable room* as a room in a building for living, sleeping, eating, or cooking, but excluding bathrooms, toilet rooms, closets, hallways, storage or utility spaces, and similar areas.

A unit that does not meet these space standards is defined as *overcrowded*. If HC determines that a unit is overcrowded because of an increase in family size or a change in family composition, HC must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, HC must terminate the HAP Contract in accordance with its terms.

11.3 TYPES OF INSPECTIONS

[24 CFR 982.405]

HC conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- **Initial Inspections.** HC conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the NSPIRE inspection before the effective date of the HAP Contract.
- **Regular/Periodic Inspections.** HUD requires HC to inspect each unit under lease periodically, depending on HC policy, to confirm that the unit still meets NSPIRE standards.
- **Special/Interim Inspections.** A special/interim inspection may be requested by the owner, the family, or a third party because of problems identified with a unit between annual inspections.

- **Quality Control Inspections.** HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that NSPIRE standards are being enforced correctly and uniformly by all inspectors.

11.3.1 Inspection of HC-Owned Units

[24 CFR 982.352(b)]

See 24 CFR 982.4(b) for definition of a "PHA-owned unit".

MTW Policy

MTW Waiver: 5.c. – Inspections Third-Party Requirement

Approval Date: FY 2022-2023

Description: Under this activity HC is authorized to perform NSPIRE inspections on PBV units that it owns, manages, and/or controls.

All such inspections will be conducted using standards found at 24 CFR 982.401 (or corresponding successor standards i.e. NSPIRE).

To ensure the consistent and uniform application of inspections standards, HC supervisory staff will conduct quality control inspections on a random sample of units in accordance with the established Inspection Quality Assurance Method.

Program participants may request an interim inspection by contacting HC in accordance with the policies described in this Plan.

If requested by HUD, HC will obtain the services of a third-party entity to determine if HC owned units pass inspections standards.

Please note special requirements for HC-owned PBVs that are awarded pursuant to MTW Waiver 9.c. Elimination of PBV Selection Process for PHA-owned Projects Without Improvement, Development, or Replacement (HCV) (see PBV Selection Process for HC-Owned Units):

- *The initial pre-selection NSPIRE inspection(s) for these properties/units must be performed by an independent entity, and are not subject to MTW Waiver 5.c. detailed above.*
- *Ongoing inspections (i.e. inspections occurring after the initial PBV award) of these properties/units may utilize MTW Waiver 5.c. and waive the requirement for a third-party to conduct the inspection, allowing HC to conduct inspections on HC-owned PBV units.*

11.3.2 Inspection Costs

[Notice PIH 2016-05; 24 CFR 5.705(d)]

HC will not charge the family or owner for unit inspections [24 CFR 982.405(g)]. In the case of inspections of HC-owned units, HC may compensate the independent agency from ongoing administrative fee (including fees credited to the administrative fee reserve) for inspections performed. HC and the independent agency may not charge the family any fee or charge for the inspection.

11.3.3 Remote Video Inspections

[Notice PIH 2020-31]

As an alternative to some or all on-site inspections, HC may, but is not required to, perform NSPIRE inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow HC to make appropriate determinations about whether a condition violates NSPIRE standards, Notice PIH 2020-31 requires that if a PHA chooses to implement RVIs, the PHA should have policies and procedures in place to address such limitations.

11.3.4 Notice and Scheduling

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice may be less than 2 business days. Generally, inspections will be conducted on regular business days during regular business hours. In the case of a life-threatening emergency, HC will give as much notice as possible, given the nature of the emergency.

11.3.5 Owner and Family Inspection Attendance

Any household member (18 years of age or older) must be present for the regular inspection, any special inspection, any quality control inspection and any re-inspection.

The presence of the owner or the owner's representative is required for the initial inspection and any initial re-inspection unless the tenant obtaining unit is already residing in unit.

11.3.6 Initial Inspection

[24 CFR 982.405(a)]

Approving Units

Units assisted under the HCV program be inspected to determine that the units meet NSPIRE standards before HC approves assisted tenancy.

However, HC may, but is not required to approve assisted tenancy and start HAP if the unit:

- Fails the initial inspection, but only if no life-threatening deficiencies are identified; or
- Passed an alternative inspection in the last 24 months.

Otherwise, if neither of the above provisions are adopted, HC must determine that the unit the family selects meets NSPIRE standards prior to approving tenancy.

MTW Policy

MTW Waiver: 5.a. – Pre-Qualifying Unit Inspections

Approval Date: FY 2022-2023

Description: Under this activity, HC may conduct pre-qualifying unit inspections to determine if the unit meets NSPIRE provided that the pre-qualifying unit inspection is done no more than 90 days prior to the participant occupying the unit.

The Pre-Qualifying Unit Inspection policy applies to Pre-Selection Inspections of existing housing, Pre-HAP Contract Inspections and Turnover Inspections.

Families may request an interim inspection by contacting HC at any time in accordance with HC NSPIRE policies.

Inspection Results and Re-inspections

If any deficiencies are identified, the owner will be forwarded written notification of the deficiencies and be given a time frame to correct them (no less than 20 days unless it is a life-threatening violation, not to exceed 30 days unless an extension has been granted). If requested by the owner, the time frame for correcting the deficiencies may be extended by HC for good cause. HC may re-inspect the unit or approve documentation of completed repairs in lieu of in-person physical re- inspection.

If the time period for correcting the deficiencies (or any HC-approved extension) has elapsed, or the unit fails at the time of the re-inspection, HC will forward the owner and the family written notification that the unit has failed inspection and advise the family to search for another unit. HC may agree to conduct a second re-inspection, for good cause, at the written request from the family or owner, or through a request confirmed by the inspector.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

Utility service must be available for testing at the time of the initial inspection.

Appliances

All required appliances must be in place before the HAP Contract is executed by HC.

11.3.7 Regular/Periodic Inspections

[24 CFR 982.405(b); Notice PIH 2016-05]

HUD requires HC to regularly inspect each unit under lease to confirm that the unit still meets NSPIRE standards. HC conducts an inspection for compliance with NSPIRE before the end of the calendar month in which the initial or last annual inspection was completed.

HC conducts biennial inspections (at least once every 24 months) but reserves the right to conduct annual inspections as needed or determined by HC for:

- Units for families with a Reasonable Accommodation for an additional bedroom, typically approved by HC to be used for medical equipment;
- Units that had any health and safety deficiency during its previous NSPIRE inspection; or
- Units with multiple non-health and safety deficiencies for two or more consecutive years, that are identified by HC to be prudent to inspect annually.

Scheduling the Inspection

An adult household member (18 years or older) must be present at any scheduled inspection. It is the responsibility of the family to arrange for a household member to be present (unless it is initial inspection; then it is the landlord's responsibility). If a household member cannot be present, the family is expected

to provide a written request for a reschedule inspection and/ or receive verbal confirmation of same from the inspector or inspection supervisor. This request must be submitted and confirmed at least 2 business days prior to inspection date. Once the request is submitted and confirmed, HC may choose to reschedule the inspection for a new date.

- If the family misses a scheduled inspection, HC will consider this an inconclusive "no entry" inspection and provide the family with written notice that a new inspection has been scheduled. HC will also provide notice of the consequences of failing to make the unit accessible by an adult if an additional inspection attempt is missed in the same inspection cycle.
- If the family misses two inspections during the same cycle HC will consider the family to have violated its obligations and it may result in termination of the family's assistance in accordance with TERMINATION OF ASSISTANCE AND TENANCY.
- An inspection cycle consists of all the inspections starting from the first inspection, and all inspections that may follow, until the unit is either in a passing status or the HAP Contract has been terminated for that unit.

11.3.8 Special/Interim Inspections

[24 CFR 982.405(d)]

Special/interim inspections include inspections in response to complaints registered with HC by families, owners or other sources regarding the unit's condition, quality control inspections, or any other inspection the HC may deem appropriate to conduct. HC is obligated to investigate complaints which may indicate non-compliance with NSPIRE requirements. When repeated complaints about an assisted property are received, HC may conduct regular or routine inspections more often than annually/biennially. Special inspections resulting in a fail or inconclusive NSPIRE determination require the same notification actions and enforcement processes described above for annual inspections.

If a participant or government official notifies HC of a potential deficiency, the following conditions apply:

- If the reported deficiency is life-threatening, HC shall inspect the housing unit and notify the owner if the life-threatening deficiency is confirmed within 24 hours of notification. The owner must then make the repairs within 24 hours of HC notification.
- If the reported deficiency is non-life-threatening, HC shall inspect the unit and notify the owner if the deficiency is confirmed within 15 days of notification. The owner must then make the repairs within 30 days of notification by HC or within any HC-approved extension.

During a special/interim inspection, HC generally will inspect only those deficiencies that were reported. However, the inspector will record any additional NSPIRE deficiencies that are observed and will require the responsible party to make the necessary repairs. If the regular inspection has been scheduled or is due within ninety (90) calendar days of the date the special inspection is scheduled, HC may elect to conduct a full regular inspection.

11.3.9 Quality Control Inspections

[24 CFR 982.405(b); 24 CFR 985.3(e); HCV GB, p. 10-32]

HUD requires an HC supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the NSPIRE.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

11.4 INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

11.4.1 Correction Timeframes

[Notice PIH 2024-26, REV-1]

Each deficiency is identified in the NPSIRE standards as either life-threatening, severe, moderate, or low.

For units under HAP contract, life-threatening deficiencies must be corrected within 24 hours after notice has been provided. All other non-life-threatening deficiencies (severe and moderate) must be corrected within 30 days (or an HC-approved extension) after notice has been provided. If low deficiencies are present in a unit, these deficiencies result in a pass and would only be noted by the inspector for informational purposes.

11.4.2 Notification of Corrective Actions

[24 CFR 982.404(d)(1)]

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies deficiencies, HC will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

- When **life-threatening deficiencies** are identified: HC will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of HC's notice.
- When failures that are **severe or moderate** are identified: HC will send the owner and the family a written notification of the inspection results within five (5) business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.
- If **low deficiencies** are identified: these deficiencies will only be noted for informational purposes.

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	**HAP contracts executed or renewed June 6, 2024, or later**
Notification of Corrective Actions	The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time	**If the owner is responsible for correcting the deficiency,** the notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	**HAP contracts executed or renewed June 6, 2024, or later**
	frame (or any HC-approved extension), the owner's HAP will be abated in accordance with HC policy. In the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any HC-approved extension, if applicable) the family's assistance will be terminated in accordance with HC policy.	conditions are not corrected within the specified time frame (or any HC-approved extension), the owner's HAP will be abated in accordance with HC policy. **If the family is responsible for correcting the deficiency,** the notice will inform the family that if corrections are not made within the specified time frame (or any HC-approved extension, if applicable) the family's assistance will be terminated in accordance with HC policy. See also **ENFORCING OWNER COMPLIANCE** and **ENFORCING FAMILY COMPLIANCE** for additional policies regarding timeframes for withholding and/or abating HAP, as applicable. In addition to the information above, the notices to the tenant and owner should indicate when and if HAP will be withhold or abated, as applicable.

11.4.3 Extensions

Extensions may be granted in cases where HC has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will generally not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 10 business days, once the weather conditions have subsided.

For life-threatening deficiencies, HC cannot grant an extension to the 24-hour corrective action period.

For conditions that are severe or moderate, HC may grant an exception to the required time frames for correcting the violation, if HC determines that an extension is appropriate.

11.4.4 Reinspections

HC will conduct a reinspection immediately following the end of the corrective period, or any HC-approved extension. If the deficiencies have not been corrected by the time of the reinspection, HC will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with HC policies. If HC is unable to gain entry to the unit in order to conduct the scheduled reinspection, HC will consider the family to have violated its obligation to make the unit available for inspection which may result in termination of the family's assistance in accordance HC policy.

HC may accept self-certification of repairs. Photos or other documentation of repairs may be accepted in lieu of a reinspection.

11.5 ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with NSPIRE standards, HC will take action to enforce the owner obligations.

The following chart outlines HC's policies on withholding, abatement, and HAP contract termination if identified deficiencies are not resolved timely.

Note: Withholding differs from abatement. Withholding is a temporary hold on HAP that occurs before the end of the established cure period, for which the owner may still receive the withheld HAP if the deficiency is cured timely, whereas abatement is a process that occurs after the cure period expires and results in a permanent loss of HAP for the period the unit is out of compliance.

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	**HAP contracts executed or renewed June 6, 2024, or later**
HAP Withholding [24 CFR 982.404(d)(1)]	N/A	HC may withhold HAP for any NSPIRE deficiency at its discretion. When a unit fails inspection, HC will provide written notice to the owner to notify them of the deficiencies and the applicable cure period. At its discretion, HC may also begin withholding HAP effective the first day of the month following the failed inspection, upon notice to the owner. If the owner cures all cited deficiencies before the end of the applicable cure period (including any approved extension), HC shall release all withheld amounts to the owner, provided no new NSPIRE deficiencies have been identified. If the owner fails to cure the deficiencies by the end of the cure period and fails the reinspection, HC will abate the HAP in accordance with

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	**HAP contracts executed or renewed June 6, 2024, or later**
		its abatement policies (see abatement policy). Abated funds may not be released to the owner even if the deficiencies are subsequently cured. ***Example:*** *A unit fails inspection on 11/13, and HC notifies the owner that HAP will be withheld beginning 12/1. If the unit passes the 12/13 reinspection, HC will release the December HAP to the owner. If the unit fails the reinspection, withholding will continue and HC will notify the owner of the intent to begin abatement on 1/1. If the owner cures the deficiency before 1/1, HC will release the December HAP to the owner. If the owner does not cure the deficiency before 1/1, HC will abate the HAP, including amounts that had been withheld. If the deficiency is never cured, HC will terminate the HAP contract in accordance with its termination policies and will not release any withheld or abated HAP.* Withholding may also be utilized in situations where the reinspection cannot occur promptly or within the same month due to circumstances beyond the owner's control, at HC's discretion. These circumstances may include but are not limited to: if access to the unit is delayed due to tenant noncompliance, if the inspection is scheduled near the end of the month or over a weekend/holiday, or if HC experiences administrative or scheduling delays. In such circumstances, HC may provide an extension of the cure period and continue withholding rather than initiating abatement, thereby enabling the owner to receive the withheld HAP once the deficiency is cured.

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	**HAP contracts executed or renewed June 6, 2024, or later**
		Example: *A unit fails inspection on 11/28 and HC begins HAP withholding effective 12/1. The reinspection is scheduled for 12/28, but the tenant does not provide access on that date, and HC cannot conduct a follow-up inspection until 1/5 due to weekend and holiday closures.* • *If the unit passes inspection on 1/5: HC may elect to extend the cure period deadline from 12/28 until 1/5, delaying the start date of the abatement and giving HC the ability to release withheld December and January HAP to the owner if the unit passes inspection on 1/5.* • *If the unit does not pass inspection on 1/5: HC will follow its regular abatement policies and begin abatement effective 1/1. Abated funds may not be released to the owner even if the deficiencies are subsequently cured.*
HAP Abatement [24 CFR 982.404(d)(2)]	If an owner fails to correct deficiencies by the time specified by HC, HC will abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension). No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of deficiencies that are the family's responsibility. During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.	HC shall abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period (within 24 hours of notification for life-threatening deficiencies and within 30 days of notification - or other reasonable period established by HC - for non-life-threatening deficiencies. In this case, HC shall notify the family and the owner that it is abating payments and, if the unit does not meet inspections standards within 60 days (or a reasonable longer period established by HC), HC will terminate the HAP contract for the unit and the family will have to move to receive continued assistance.

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	**HAP contracts executed or renewed June 6, 2024, or later**
		The owner may not terminate the tenancy of any family due to the withholding or abatement of assistance. During any abatement period the family continues to be responsible for its share of the rent.
HAP Contract Termination	HC will notify the family and issue the family a voucher to move when a unit has been in abatement for 30 days. Generally, HC will terminate a HAP contract when a unit has been in abatement for 90 days; however HC will also factor into the HAP termination determination, the nature of the violation, the extent of the repairs and the good faith of the landlord in attempting to make said repairs. HC will make an effort to not terminate the HAP contract until the family finds another unit, provided the family does so in a reasonable time. The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies HC before the termination date of the HAP contract, HC may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.	If the owner fails to make the repairs within 60 days (or a reasonable longer period established by HC) of the notice of abatement, HC will terminate the HAP contract for the unit and the family will have to move to receive continued assistance. In this case, HC shall issue the family its voucher to move at least 30 days prior to the termination of the HAP contract. The family will be given at least 90 days (or a longer period as HC determines is reasonably necessary) following the termination of the HAP contract to lease a new unit. If the family is unable to lease a new unit within the period provided by HC and there are no PBV or RAD PBV units of appropriate size to offer to the family, then HC shall offer, and, if accepted, provide the family a selection preference for an appropriate-size public housing unit that first becomes available for occupancy after the time period expires.
Relocation Assistance [24 CFR 982.404(e)(3)]	N/A	HC may assist families relocating due to HAP contract termination (as noted above) in finding a new unit, including using up to 2 months of the withheld and abated assistance payments for costs directly associated with relocating to a new unit, including security deposits, temporary housing costs, or

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	HAP contracts executed or renewed June 6, 2024, or later
		other reasonable moving costs as determined by HC. If HC uses the withheld and abated assistance payments to assist with the family's relocation costs, HC will provide security deposit assistance to the family as necessary. If the family receives security deposit assistance from HC for the new unit, HC may require the family to remit the security deposit returned by the owner of the new unit at such time that the lease is terminated, up to the amount of the security deposit assistance provided by the HC for that unit. If this policy is adopted by HC, then HC will update this section of the Plan to include any further policy details.

11.6 ENFORCING FAMILY COMPLIANCE

[24 CFR 982.404(b)]

Topic	Policy	
	HAP contracts executed or renewed June 5, 2024, or earlier	HAP contracts executed or renewed June 6, 2024, or later
Enforcing Family Compliance	Families are responsible for correcting any deficiencies listed in Family Responsibilities. If the family fails to correct a violation within the period allowed by HC (and any extensions), HC will terminate the family's assistance in accordance with HC policy. If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.	**If HC waived the landlord responsibility for tenant-caused deficiencies, the family is responsible for correcting the deficiencies.** If the family fails to correct a deficiency within the period allowed by HC (and any extensions), HC may terminate the family's assistance, according to HC's policies. If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair and may enter into a repayment agreement with the family.

11.7 ALTERNATIVE INSPECTION METHODS

[PIH Notice 2017-20]

The alternative inspection provision allows HC to approve assisted tenancy of a unit before HC conducts the initial NSPIRE inspection if the property has, in the previous 24 months, passed a qualifying alternative inspection. Under this provision, HAP is not paid to the owner until HC completes its initial NSPIRE inspection. HC then makes assistance payments retroactively, dating back to the effective date of the HAP contract and assisted lease term, once the unit has been inspected and found to meet NSPIRE standards.

Use of alternative inspection methods are at the sole discretion of HC.

11.7.1 Eligible Alternative Inspection Methods

REAC/HOME/LIHTC Inspections

Inspections covered by REAC, HOME, and LIHTC employ unit sampling. The regulation requires HCV and PBV units be included in the universe of units forming the basis of the sample. For example, if a 100-unit property includes 20 units that are occupied by HCV-assisted families or are under a PBV HAP Contract, then those 20 units must be included in the universe of units from which the sample is pulled. This requirement does not mean that the 20 units must be included in the actual sample; it means only that the units must have the potential to be selected for the sample by being included in the universe of sampled units.

Other Inspection Methods.

To rely on inspections other than those covered by REAC, HOME, or LIHTC, a PHA must submit to HUD the inspection method and an analysis showing that the method meets or exceeds NSPIRE. A PHA may not rely upon such a method unless and until HUD has reviewed and approved use of the method. Once HUD has approved the inspection method, then HC must amend its Administrative Plan, making clear the specific properties or types of properties for which the inspection method will be employed. If the inspection method relies upon sampling, then the HCV/PBV units must be included in the population of units forming the basis of the sample, as described above.

HC will rely upon two different categories of alternative inspections: (1) inspections conducted by HUD's Real Estate Assessment Center (REAC) or under the HOME or LIHTC program; or (2) other inspection methods that meet or exceed NSPIRE and have been approved by HUD's Real Estate Assessment Center.

- HUD will not approve a method that fails to assess the performance requirements and acceptability criteria of unit inspection standards outlined at [24 CFR 982.401], or any successor standard. As with NSPIRE, HUD may approve variations to alternate inspection methods only for the purposes outlined at [24 CFR 982.401(a)(4)(ii)], and then only if the variations meet the standard for approval at [24 CFR 982.401(a)(4)(iii)]. If a method fails to meet these requirements, then HUD will not approve its use.

11.7.2 Inspection Reports

As with all other inspection reports required under [24 CFR 982.158(f)(4)], reports for alternative inspection methods must be obtained by HC from the entity inspecting the units. Such reports must be available for HUD inspection for at least three years from the date of the latest inspection.

HC must receive inspection reports and other data from any entity conducting an inspection using an alternative method within 5 business days of the inspection. Prompt analysis of inspection results enable HC to determine if any identified deficiencies would result in NSPIRE failure. Memorandums of Understanding or other agreements could be used by HC and other entities to ensure timely data submission.

Where possible, HC will enter agreements to receive inspection reports within 5 business days of the inspection.

HC will continue to submit the Form HUD-50058 into the PIC system in the same manner, which includes providing the date of last inspection, and the date the unit last passed inspection. For methods that employ sampling, the date of the inspection will be used for all units in the universe, even if those units were not selected for inspection.

11.7.3 Limitations on the Use of Alternative Inspection Methods

HC will rely upon an alternative inspection method to demonstrate compliance with the inspection requirement of [24 CFR 982.405(a)] in two circumstances:

- In the case of an alternative method that employs a "Pass/Fail" scoring system, the property inspected pursuant to such alternative method receives a "Pass" score. HC may rely on an alternative method if the property receives a "Pass" score, even if deficiencies are identified.
- In the case of an alternative method that results in a list of deficiencies (without a "Pass/Fail" designation), where HC determines that none of the cited deficiencies would have resulted in a "Fail" score under NSPIRE.

Under any circumstance in which HC is prohibited from relying on an alternative inspection method for a property, HC will promptly conduct an NSPIRE inspection of all units occupied by voucher program participants, and follow NSPIRE procedures to remedy any identified deficiencies, as required under the NSPIRE inspection method.

CHAPTER 12: RENT REASONABLENESS

12.1 OVERVIEW

[24 CFR 982.507]

A HAP contract and lease may not be approved until HC has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program. A reasonable rent is one that does not exceed the rent charged for comparable, unassisted units in the same market area. Owners are also prohibited from charging more for assisted units than for comparable unassisted units on the premises.

At all times during assisted tenancy, HC will ensure that the rent to the owner does not exceed the reasonable rent as most recently determined or re-determined by HC. HC will make a determination whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. In making this determination HC will consider:

- The amount of rent being charged for comparable, standard, unassisted units in the neighborhood;
- The quality, location, size, unit type and age of the contract unit;
- The amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease;
- Onsite facilities;
- Management and maintenance of the building and unit; and
- The amount of rent charged by the owner for similar units in the same structure.

12.2 HC-OWNED UNITS

[24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in an HC-owned unit, HUD typically requires that a PHA obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. However, HC has been approved for an MTW waiver, as detailed below, to eliminate this requirement.

MTW Policy

MTW Waiver: 2.d. – Rent Reasonableness Third-Party Requirement

Approval Date: FY 2022

Applicable to: All MTW-assisted households

Description: HC will conduct rent reasonableness on HC-owned, managed and/or controlled units. HCV staff will determine rent reasonableness in accordance with program requirements and assist the family in negotiating the contract rent when the family requests assistance. HCV staff will communicate the results of the rent

reasonableness determination to the family and to other applicable HC staff who provide management to the unit.

An *HC-owned unit* is defined as a unit that is owned by HC that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by HC). The independent agency must communicate the results of the rent reasonableness determination to the family and HC. The independent agency must be approved by HUD and may be the unit of general local government for HC jurisdiction (unless HC is itself the unit of general local government or an agency of such government).

12.3 WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

HC will determine rent reasonableness in accordance with HUD requirements:

- At initial move-in;
- Before any increase in rent;
- If there is a 10 percent decrease in the applicable fair market rent that goes into effect at least 60 days before the contract anniversary date; and
- At any other time at the discretion of HC.

In addition to the instances described above, HC will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) HC determines that the initial rent reasonableness determination was in error or (2) HC determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

For rent increase requests after initial lease-up, HC may request owners to provide information about the rents charged for other unassisted units owned by the landlord. In evaluating the proposed rents in comparison to other unassisted units HC will consider unit size and length of tenancy in the other units.

HC will timely determine whether the requested increase is reasonable after receiving the request from the owner. The owner will be notified of the determination in writing.

12.4 REQUESTS FOR RENT INCREASE

12.4.1 Owner-Initiated Rent Increases

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, HC may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises, HC will consider unit size and length of tenancy in the other units.

Requests for rent increase by the owner are subject to the following requirements:

- Owners seeking a contract rent increase must send a written request to HC, copied to the participant, at least 60 days prior to the proposed date of the increase.
- The contract rent may not be increased until after the initial term of the lease.
- After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease once in a 365-day period.

- Rent increases will not be approved unless any failed items identified by the most recent NSPIRE inspection have been corrected.
- All rent adjustments will become effective the later of: (1) the first of the month that begins 60 or more calendar days after HC receives the owner's request with all HC required documents properly completed and signed, or (2) on the date specified by the owner in the request.

HC will determine whether the requested increase is reasonable and will notify the owner in writing. HC is not required to approve a rent increase if the rent is determined to be unreasonable, or if HC has insufficient funding to provide for general increases.

12.4.2 HC and HUD-Initiated Rent Reasonableness Determinations

HUD requires HC to make a determination of rent reasonableness if there is a ten percent decrease in the HUD-published Fair Market Rent (FMR) that goes into effect at least 60 calendar days before the contract anniversary date.

Additionally, HC will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) HC determines that the initial rent reasonableness determination was in error or (2) HC determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

12.4.3 LIHTC- And HOME-Assisted Units

[24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME- assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTC's, if the rent requested by the owner does exceed the LIHTC rents for non- voucher families, HC must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the subsidy standard established by HC for the unit size involved.

12.5 HOW REASONABLE RENTS ARE DETERMINED

The reasonable rent must be determined by comparison to the rent for other comparable unassisted units.

12.5.1 Comparability – Factors to Consider

HC will consider the factors listed below when determining rent comparability. HC may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit:

- Location and age;
- Unit size including the number of rooms;
- The type of unit including construction type (e.g., single family, duplex, garden, low- rise, high-rise);

- The quality of the units including the quality of the original construction, maintenance and improvements made; and
- Amenities, services, and utilities included in the rent.

12.5.2 Units That Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units.

These include units assisted by HUD through any of the following programs:

- Section 8 project-based assistance;
- Section 236 and Section 221(d)(3);
- Below Market Interest Rate (BMIR) projects;
- HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized;
- Units subsidized through federal, state, or local tax credits;
- Units subsidized by the Department of Agriculture rural housing programs; and
- Units that are rent-controlled by local ordinance.

12.5.3 Rents Charged for Other Units on the Premises

The RFTA requires owners to provide information about the rent charged for other unassisted comparable units on the premises if the premises includes more than 4 units.

By accepting HC payment each month, the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give HC information regarding rents charged for other units on the premises.

Units for which an owner has decided to charge rents that are below what other tenants are charged and what the market might bear are not "assisted" units for the purposes of rent reasonableness determinations. Per HUD guidance, these units must be taken into consideration as unassisted comparable units on the premises.

Units assisted by Low-Income Housing Tax Credits (LIHTC) or assistance under HUD's HOME Program are not required to determine rent reasonableness if the rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance. If the rent requested exceeds rent for non-voucher families, then a rent reasonableness determination is required.

In the case of a family moving into a multi-family property, HC will only consider units leased within the past year in determining comparable unassisted units.

12.6 HC RENT REASONABLENESS METHODOLOGY

12.6.1 How Market Data is Collected

HC will collect and maintain data on market rents in HC's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database. This data is collected and maintained in a database, which is maintained by a third-party.

For any HC-owned units in the Project-based Voucher Program, see PROJECT BASED VOUCHER (PBV) ASSISTANCE.

12.6.2 How Rents are Determined

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. HC will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, HC may adjust the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference—not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

HC will notify the owner of the rent HC can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. HC will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 10 business days of HC's request for information or the owner's request to submit information.

CHAPTER 13: GENERAL LEASING POLICIES

13.1 OVERVIEW

In order for HC to assist a family in a particular dwelling unit, or execute a housing assistance payments (HAP) contract the unit must meet the following requirements:

- Unit Eligibility: The unit must qualify as an eligible unit;
- Inspections: The unit must be decent, safe and sanitary and meet HCV Inspections Standards;
- Lease: The lease offered by the owner must be approvable and include the required HUD Tenancy Addendum;
- Rent Reasonableness: The unit rent must be reasonable given the market area and amenities; exception rents may apply where accessible units are concerned; and
- Owner: The owner must be an eligible owner, approvable by HC, with no conflicts of interest.

13.2 OWNER SCREENING OF PROSPECTIVE TENANTS

HC has no liability or responsibility to the owner or other persons for the family's behavior for tenancy. The owner is responsible for screening and selection of the family to occupy the owner's unit. HC informs owners that screening and selection for tenancy is the responsibility of the owner. HC also informs owners and/or managers of their responsibility to comply with VAWA.

If requested, HC may provide owners with the family's current and prior address (as shown in HC records), and the name and address (if known to HC) of the landlord at the family's current and prior address.

HC does not provide prospective landlords any additional information related to screening the tenant.

13.3 REQUESTING TENANCY APPROVAL

[Form HUD-52517]

Once a family finds a suitable unit, the owner and the family must request approval from HC.

13.3.1 Required Documents

The owner and the family must submit the following documents to HC:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517;
- Completed HC form Unit Characteristics;
- IRS W-9 or;
- Proof of ownership documentation (i.e. property deed)
- Banking information for direct deposit of HAP.
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A.

HC may request additional documents such as: Lead-based Paint form, other proof of ownership, Owner Declaration.

13.3.2 Request for Tenancy Approval (RFTA) Form

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for HC to determine whether to approve the assisted tenancy in this unit.

The RFTA must be complete and signed by both the family and the owner. If the RFTA is incomplete (including lack of signature by family, owner, or both) HC will not accept the RFTA.

The family may not submit, and HC will not process, more than one RFTA at a time.

13.3.3 Proof of Ownership

The owner must supply documentation of proof of ownership of the unit to HC. HC will require the owner to supply the deed for the property prior to approving a Request for Tenancy, and may also collect other acceptable documentation of legal ownership of the unit.

HC will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

When owners use a management agency, documentation of legal ownership as well as the management agreement between the owner and the management agency must be provided to HC.

13.3.4 Other Requirements

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the spouse, parent, child, grandparent, grandchild, sister or brother of any member of the family, unless HC has granted a request for reasonable accommodation for a person with disabilities who is a member of the household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher or any approved extensions, suspensions, or tolling.

13.4 UNIT ELIGIBILITY

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program.

13.4.1 Eligible Units

Generally, a voucher-holder family may choose any available dwelling unit on the market in HC's jurisdiction. This includes the dwelling unit they are currently occupying.

HC may also permit households to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs [24 CFR 982 Subpart M]. These special housing types include:

- Single room occupancy (SRO) housing
- Congregate housing
- Group home
- Shared Housing
- Manufactured home space (where the family owns the manufactured home and leases only the space)
- Cooperative housing
- Homeownership option (if and when HC operates the HUD Homeownership program)

HC may permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

13.4.2 Ineligible Units

[24 CFR 982.352(a)]

HC will not assist a unit under the voucher program if the unit is:

- A public housing or Indian housing unit;
- A unit receiving project-based assistance under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services;
- College or other school dormitories;
- Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
- A unit occupied by its owner or by a person with any interest in the unit.

13.4.3 HC-Owned Units

[24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by HC may also be leased in the voucher program. In order for an HC-owned unit to be leased under the voucher program, HC must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a HC-owned unit without any pressure or steering by HC.

13.4.4 Duplicative Assistance

[24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or state rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities;
- Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, state, or local housing subsidy, as determined by HUD. For this purpose, housing subsidy does not include the housing component of a welfare payment, a Social Security payment received by the family, or a rent reduction because of a tax credit.

13.4.5 Inspections Standards

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) and/or equivalent state or local standards approved by HUD. See the chapter on INSPECTIONS for a full discussion of the physical standards, as well as the process for inspections.

13.4.6 Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. Families are allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable NSPIRE space requirements. Families are allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family provided that the rent for the unit is consistent with the maximum initial rent burden.

13.4.7 Rent Reasonableness

[24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the

owner for comparable, unassisted units on the premises. See the chapter on RENT REASONABLENESS for a full discussion of rent reasonableness policies.

13.4.8 Rent Burden

[24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent cannot exceed 40 percent of the family's monthly adjusted income.

13.5 LEASE AND TENANCY ADDENDUM

13.5.1 Lease

[24 CFR 982.308]

The family and the owner must execute and enter into a written lease for the assisted unit. This written lease is a contract between the tenant family and the owner; HC is not a party to this contract. The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease.

The assisted dwelling lease must contain all of the required information, including:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, and any other information needed to identify the contract unit);
- The term of the lease (initial term and any provisions for renewal);
- The amount of the monthly rent to owner;
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

HC will not review the owner's lease for compliance with state/local law.

13.5.2 Lease Changes

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give HC a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, HC-approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless HC has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- Changes in lease provisions governing the term of the lease; and
- The family moves to a new unit, even if the unit is in the same building or complex.

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RFTA) along with a new lease containing the modified terms. A new tenancy must then be approved in accordance with this chapter. HC will re-determine reasonable rent in these circumstances.

Where the owner is requesting a rent increase, HC will determine whether the requested increase is reasonable. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the HC of the rent change or on the date specified by the owner, whichever is later.

13.5.3 Separate Non-Lease Agreements between Owner and Tenant

[24 CFR 982.451(b)(4)], [24 CFR 982.510(c)]

HC permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

13.5.4 Tenancy Addendum

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

13.5.5 Term of Assisted Tenancy

The HAP contract requires an initial term of one (1) year. HC will make a reasonable effort to obtain a one (1) year lease; however, HC may approve a shorter initial lease term if it is determined that:

- Such shorter term would improve housing opportunities. This could include but is not limited to tenants that already have an in-place lease agreement.
- Such shorter term is the prevailing market practice.
- It is needed as a reasonable accommodation.

During the initial term of the lease, the owner may not raise the rent and/or make any changes to the lease. Any provisions for renewal of the lease will be stated in the lease.

After the initial lease term, any subsequent lease term proposed by an owner in that same unit must be for at least one year, unless a different term is specifically stated otherwise in the initial executed lease. The term of any hold-over tenancy lease will be month-to-month with no changes to the terms of the lease.

13.5.6 Security Deposit

[24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. Security deposits must be in accord with all State and local laws and may not be in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

13.6 TENANCY APPROVAL

[24 CFR 982.305]

After receiving the family's RFTA, HC will notify the family and owner, in writing, as to whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, HC will ensure that all required actions and determinations are completed, including ensuring that:

- The unit is eligible;
- The unit has been inspected by HC and meets the NSPIRE standards;
- Any lease offered by the owner is approvable and includes the required Tenancy Addendum;
- The rent to be charged by the owner for the unit is reasonable and where applicable does not result in the tenant being rent burdened;
- The owner is an eligible owner, not disapproved by HC, with no conflicts of interest; and
- The family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information.

If the terms of the RFTA are changed for any reason, including but not limited to negotiation with HC, HC will obtain corrected copies of the RFTA signed by the family and the owner.

13.6.1 Disapproval of Assisted Tenancy

If HC determines that the tenancy cannot be approved for any reason, the owner and the family will be notified and given the opportunity to address any reasons for disapproval. HC will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability or rent reasonableness, the HC will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

13.7 HAP CONTRACT

The HAP contract is a written agreement between HC and the owner of the dwelling unit occupied by an HCV-assisted family. The contract spells out the owner's responsibilities under the program, as well as HC's obligations. Under the HAP contract, HC agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

13.7.1 HAP Contract Execution

[24 CFR 982.305]

If HC has given approval for the family of the assisted tenancy, the owner and HC must execute the HAP contract.

The HAP contract will be executed no later than 60 days from the effective date of the lease.

13.7.2 HAP Contract Payments

At the beginning of each month during the term of the HAP contract, and subject to the provisions of the HAP contract, HC will make monthly HAP payments to the owner on behalf of the family. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

HC will not pay any housing assistance payment to the owner until the HAP contract has been executed.

Any HAP contract executed after the 60 day period is void, and HC may not make any housing assistance payments to the owner unless there are extenuating circumstances that prevent or prevented HC from meeting the 60-day deadline, in which case HC may submit to the HUD field office a request for an extension. The request, which must be submitted no later than two weeks after the 60-day deadline, must include an explanation of the extenuating circumstances and any supporting documentation. HUD at its sole discretion will determine if the extension request is approved.

The monthly HAP payment by HC is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant plus the HC HAP payment should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and HC is not responsible for payment of the family share of rent.

The owner may not demand or accept any rent payment from the tenant in excess of this maximum. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

If the owner receives any excess HAP from HC, the excess amount must be returned immediately. If HC determines that the owner is not entitled to all or a portion of the HAP, HC may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract.

13.7.3 Owner Certification Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract.

By endorsing the monthly check from HC, the owner certifies to compliance with the terms of the HAP contract. This includes certification that:

- The owner is maintaining the unit and premises in accordance with NSPIRE;
- The contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence;
- The rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and
- The owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

13.7.4 Late HAP Payments

HC is responsible for making HAP payments promptly when due to the owner in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term the HAP contract provides for penalties if HC fails to make the HAP payment on time. HC shall pay the owner penalties if:

- Such penalties are in accordance with generally accepted practices and law, as applicable in the local housing market governing penalties for late payment of rent by a tenant;
- It is the owner's practice to charge such penalties for assisted and unassisted tenants; and
- The owner also charges such penalties against the tenant for late payment of family rent to owner.

HC is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond HC's control. In addition, late payment penalties are not required if HC intentionally delays or denies payment as a remedy to an owner breach of the HAP contract.

13.7.5 Termination of HAP Contracts and Payments

The HAP contract and the housing assistance payments made under the HAP contract may be terminated if:

- The owner or the family terminates the lease;
- The lease expires;
- HC terminates the HAP contract;

- HC terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit;
- 180 days have elapsed since HC made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by HC;
- The Annual Contributions Contract (ACC) between HC and HUD expires; or
- HC elects to terminate the HAP contract.

HC may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for households in the program;
- The unit does not meet NSPIRE size requirements due to a change in family composition;
- The unit does not meet NSPIRE;
- The family breaks up; or
- The owner breaches the HAP contract.

If HC terminates the HAP contract, HC will give the owner and the family written notice. The notice will specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract.

Generally, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner. HC cannot make any HAP payment for any month after the month the family vacates the unit. The owner is not entitled to any HAP after this period and must return to HC any housing assistance payment received after this period

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required.

If the family moves out of the unit, HC may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

The owner must inform HC when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

If the owner has commenced the process to evict the tenant and the family continues to reside in the unit, HC must continue to make housing assistance payments to the owner in accordance with the HAP contract until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. HC may continue such payments until the family moves from, or is evicted from the unit, whichever is earlier.

The owner must inform HC when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide HC with a copy of such judgment or determination. The owner must inform HC of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13.7.6 Breach of HAP Contract

Any of the following actions by the owner constitutes a breach of the HAP contract:

- The owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with NSPIRE;
- The owner violates any obligation under any other HAP contract under Section 8 of the U.S. Housing Act of 1937;
- The owner commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- Owner non-payment of property taxes;
- For projects with mortgages insured by HUD or loans made by HUD, if the owner fails to comply with the regulations for the applicable program; or if the owner commits fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan;
- The owner engages in drug-related criminal activity; or
- The owner commits any violent criminal activity.

If HC determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

HC rights and remedies against the owner under the HAP contract include:

- Recovery of any HAP overpayment;
- Suspension of housing assistance payments;
- Abatement of housing assistance payments;
- Reduction of the housing assistance payment;
- Termination of the payment; or
- Termination of the HAP contract.

HC may also obtain additional relief by judicial order or action.

HC will notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. HC will provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

13.8 LANDLORD LEASING INCENTIVES

Subject to available funding, HC may implement the following policies designed to incentivize and increase landlord participation in the tenant-based HCV program.

MTW Policy

MTW Waiver: 4.a. & 4.c. Landlord Leasing Incentives

Approval Date: October 26, 2023

Applicable to: All MTW-assisted households

Description*:*

General Requirements

- Landlords may be eligible to receive one or more of the leasing incentives described below.
- The landlord may receive the maximum of one month's contract rent per each leasing incentive for which they qualify, as approved by HC.
- Landlords approved to lease a unit to a family member (under an exception to HC's restrictions on renting from relatives) are not eligible to receive landlord incentives for that tenancy, as these incentives are intended to expand housing opportunities beyond existing family arrangements.
- All landlord incentives are subject to funding availability at the time the applicable HAP contract is executed. If funding is unavailable at that time, HC will not pay the incentive retroactively if funding later becomes available.

1. Vacancy Loss

HC will provide vacancy loss payments to eligible landlords participating in the HCV tenant-based program in order to incentivize continued participation in the HCV program. Landlords will be eligible for these payments if: (1) the unit is currently under a Housing Assistance Payments (HAP) contract, (2) the current voucher participant has moved out, (3) the owner has agreed to lease to a new voucher participant, and (4) the housing unit will be vacant for a brief period of time between tenancies.

Payments to landlords will not exceed one month of the contract rent and will be paid to the owner when the next HAP contract is executed between HC and the landlord.

2. Signing Bonus Payment

Landlords who participate in the HCV program by renting their unit to a HC-assisted tenant for the first time will be eligible for a "new landlord bonus payment."

The amount of bonus payment shall not exceed one month of the approved contract rent for the unit. The payment will be made to the landlord when the HAP contract is executed between the landlord and HC and along with the first month's rent payment to the landlord.

3. Unit Hold Incentive Payment

Unit hold incentive payments will be made available to landlords who lease a unit that was previously occupied by a non-subsidized tenant to a HC HCV participant.

Upon successful execution of the lease and HAP contract between the landlord and HC, the landlord will be eligible for the unit hold incentive payment to account for the time the unit was vacant while the leasing paperwork and inspection were in process.

The amount of bonus payment shall not exceed one month of the approved contract rent for the unit. The payment will be made to the landlord when the HAP contract is executed between the landlord and HC and along with the first month's rent payment to the landlord.

Payments to landlords will not exceed one month of the contract rent and will be paid to the owner when the HAP contract is executed between HC and the landlord.

In addition, in accordance with HUD guidance and subject to available funding, HC may utilize their Unrestricted Net Position (UNP, or administrative fee reserves) or ongoing administrative fees towards authorized activities designed to help assist HCV families in leasing units under the program.

CHAPTER 14: MOVING WITH CONTINUED ASSISTANCE

14.1 OVERVIEW

Freedom of housing choice is a hallmark of the HCV program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and HC policies governing moves within HC's jurisdiction. See PORTABILITY for more information about moves outside of HC's jurisdiction.

14.2 ALLOWABLE MOVES

HC will allow families to move under the following circumstances:

- **Family Termination:** The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise). The family must give the owner a notice of termination in accordance with the lease. If the family terminates the lease on notice to the owner, the family must give HC a copy of the notice at the same time.
- **Family and Owner Mutual Termination:** If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give HC a copy of the termination agreement.
- **Owner Notice to Vacate:** The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family. The family must give HC a copy of any owner eviction notice.
- **VAWA:** The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and the move is needed to protect the health or safety of the family or family member. See Violence Against Women Act Protections.
- **HC Termination Due to Owner Breach:** HC has terminated the assisted lease for the family's unit for the owner's breach, including owner breach due to inspections-related violations.
- **Move Due to Unit Size:** HC determines that the family's current unit does not meet the inspections space standards because of an increase in family size or a change in family composition. In such cases, HC will issue the family a new voucher, and the family try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, HC will terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and will notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which HC gives notice to the owner.

14.3 RESTRICTIONS ON MOVES

HC restricts or denies moves under the circumstances outlined below.

14.3.1 Insufficient Funding

HC may deny a family permission to move either within or outside its jurisdiction if HC does not have sufficient funding for continued assistance. HC will follow regulatory requirements related to restrictions on moves due to insufficient funding. HC will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

HC may deny a request to move due to insufficient funding if all of the following applies:

- The move is to a higher cost unit (for moves within HC's jurisdiction).
- The receiving PHA is not absorbing the voucher (applicable only to portability moves; see PORTABILITY).
- HC would be unable to avoid termination of current participants during the calendar year in order to remain within its budgetary allocation for housing assistance payments.

If HC approves a family's request to move and then subsequently experiences a funding shortfall, HC may only rescind the voucher if the family would be allowed to remain in its current unit. If the family cannot remain in the unit (e.g., family has already vacated the unit or family has already notified the owner of their intent to vacate and the owner has re-let the unit to another family) HC will not rescind the voucher. The family must be allowed to lease a new unit.

HC will not deny a move for families moving within HC's jurisdiction (even if the new unit is a higher cost unit) if the family must move from their current unit (e.g., the unit failed NSPIRE, the owner failed to renew the lease).

HC will create a list of families whose moves have been denied due to insufficient funding. HC will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. HC will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list.

14.3.2 Restrictions on Elective Moves

[24 CFR 982.354(c)]

HC will restrict the number of moves by a participant to once per year. HC's policies regarding moves during the initial lease term and the number of allowable moves in a one-year period apply to moves within HC's jurisdiction.

- HC may deny permission to move in the following circumstances:
  - The head of household or a member of the household currently owes money to HC including if an active Tenant Payment Agreement is in place.
  - The household is not current with any agreement for repayment with HC.
  - HC is administering a Port-in voucher where the head of household or a member of the household currently owes money to another housing authority, including if an active Tenant Payment Agreement is in place, or if the household is not current with any agreement for repayment with another housing authority.
  - The requested move is within the initial term of the lease.
  - The household has had a prior move within the past twelve-month period or was issued a voucher for a move and it expired without moving in the past twelve- month period.
  - The household has violated any of its Family Obligations under the HCV Program.
  - The household claims zero income and cannot demonstrate adequate financial resources to afford the move and related expenses.

HC will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

Additionally, HC will, in appropriate instances, vary the above criteria in accordance with its Reasonable Accommodation or Violence Against Women Act Protections.

14.4 MOVING PROCESS

14.4.1 Request to Move

If a family wishes to move to a new unit, the family must notify HC and the owner in writing before moving out of the old unit or terminating the lease on notice to the owner.

If the family wishes to move to a unit outside HC's jurisdiction, see PORTABILITY.

14.4.2 Approval

Upon receipt of a family's notification that it wishes to move, HC will determine whether the move is approvable in accordance with the regulations and policies set forth in in this Plan.

14.4.3 Reexamination of Family Income and Composition

For families approved to move to a new unit within HC's jurisdiction, HC will perform a new annual reexamination. The new reexamination effective date will be consistent with the anniversary month of the new lease. HC will not reverify family information if the last regular reexamination was effective within 120 days from the date of the request to move.

14.4.4 Voucher Issuance and Briefing

For families approved to move to a new unit within HC's jurisdiction, HC will issue a new voucher when the move is approved. At HC's discretion, no briefing may be required for these families. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and HC approves. Otherwise, the family will lose its assistance.

14.5 HOUSING ASSISTANCE PAYMENTS

[24 CFR 982.311(d)]

When a family moves out of an assisted unit, HC may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

14.6 ZERO HAP FAMILIES WHO WISH TO MOVE

[24 CFR 982.455]

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. However, if no subsidy will be paid at the unit to which the family requests to move, HC will not enter into a HAP contract on behalf of the family for the new unit.

CHAPTER 15: PORTABILITY

15.1 PORTABILITY OVERVIEW

Within the limitations of applicable requirements included in this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program.

The term portability refers to the process of leasing a dwelling unit with tenant-based voucher assistance outside of the jurisdiction of the PHA that initially issues the family its voucher (the initial PHA). Program regulations covering where a family may move and the responsibilities of the initial PHA and the receiving PHA (the PHA with jurisdiction over the area to which the family moves) are found federal regulations at 24 CFR 982.353 through 982.355.

- Where port-outs are concerned, HC is the initial PHA.
- Where port-ins are concerned, HC is the receiving PHA.

The receiving PHA has two options:

- Administering the family's voucher for the initial PHA. Under this option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher; or
- Absorbing the family into its own program. Under this option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

15.2 PORT-OUTS

A *port-out* is when a current HC voucher holder wants to move outside of HC's area of operation.

15.2.1 Receiving PHA Role

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family.

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program.

15.2.2 Applicant Families

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in HC's jurisdiction at the time that the family's initial application for assistance was selected, the family must lease a unit within HC's jurisdiction for at least 12 months before requesting portability. Exceptions to this policy may be made due to VAWA or Reasonable Accommodation needs.

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area. The family must specify the area to which the family wishes to move.

HC is responsible for determining whether the family is income eligible in the area to which the family wishes to move. If the applicant family is not income eligible in that area, HC will inform the family that it may not move there and receive voucher assistance.

Income Eligibility

HC will determine whether the family is income eligible in the area to which the family wishes to move. If the applicant family is not income eligible in that area, HC will inform the family that it may not move there and receive voucher assistance.

In determining whether or not to deny an applicant family permission to move under portability because HC lacks sufficient funding or has grounds for denying assistance to the family, HC will follow the policies established in the Insufficient Funding section.

15.2.3 Participant Families

HC will not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. A family, however, is exempt from this prohibition if the family has moved to protect the health or safety of an individual in the family who is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit. See Violence Against Women Act Protections.

HC will determine whether a participant family may move out of its jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in Allowable Moves and will notify the family accordingly.

Income Eligibility

HC will not redetermine income eligibility when a participant family ports out of its jurisdiction.

15.2.4 Reexamination of Household Income and Composition at Port-Out

A new reexamination of family income and composition is not required for a participant family who is approved to move out of HC's jurisdiction under portability. However, for a participant family approved to move out of HC's jurisdiction under portability, HC generally will conduct a reexamination of family income and composition if the family's regular reexamination is due within 120 days of the date of request to port out.

HC will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

15.2.5 Briefing

No formal briefing will be required for a tenant family wishing to move outside of HC's jurisdiction under portability. However, HC will provide the family with the same oral explanation of portability that it provides to applicant households selected for admission to the program.

HC will provide the name, address, and phone of the contact for the PHA(s) in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, HC will advise the family that the family:

- Selects the receiving PHA, and
- Must notify HC of which receiving PHA was selected.

HC will further inform the family that if the family prefers not to select the receiving PHA, HC will select the receiving PHA on behalf of the family. In this case, HC will not provide the family with information for all receiving PHAs in the area.

HC will advise the family that they will be under the receiving PHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

15.2.6 Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher. In issuing vouchers to applicant households, HC will follow the policies set forth in this Plan.

When a current participant decides to move outside HC's area of operation, HC will issue a new voucher to the family. The initial term of the port-out voucher will be 60 days.

15.2.7 Voucher Extensions and Suspensions

At its discretion, HC may also opt to extend a voucher under the following circumstances:

- The initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA;
- The family decides to return to HC's jurisdiction and search for a unit; or
- The family decides to search for a unit in a third PHA's jurisdiction.

In the cases above, HC's policies on voucher extension and suspensions will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term. See policies on Voucher Issuance and Voucher Term.

Once the receiving PHA issues the family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must notify HC of any extensions granted to the term of the voucher; however, HC must determine if HC will extend the billing submission deadline.

15.2.8 Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, HC will contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher.

If the receiving PHA notifies HC that it will absorb the voucher, the receiving PHA may not reverse its decision at a later date without HC's consent.

If the receiving PHA will bill HC for the portability voucher and the cost of the HAP will increase due to the move, HC may deny the move if it does not have sufficient funding for continued assistance in accordance with the regulatory requirements.

15.2.9 Initial Contact with the Receiving PHA

After approving a family's request to move under portability, HC must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family. HC will advise the family that they must promptly contact the receiving PHA in order to be informed of and comply with the receiving PHA's procedures for incoming portable households.

15.2.10 Sending Documentation to the Receiving PHA

HC will send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out;
- A copy of the family's voucher;
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058;
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data.

In addition to these documents, HC will provide the following information, if available, to the receiving PHA:

- Social Security numbers (SSNs);
- Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system;
- Documentation of legal identity;
- Documentation of citizenship or eligible immigration status;
- Documentation of participation in a family self-sufficiency (FSS) program.

HC will notify the family in writing regarding any information provided to the receiving PHA.

15.2.11 Initial Billing Deadline

[Notice PIH 2016-09]

If HC has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665 (90 days from the expiration date of the initial PHA's voucher), HC will contact the receiving PHA. If the receiving PHA reports that the family is not yet under HAP contract, HC will inform the receiving PHA whether it will honor a late billing submission. HC will send the receiving PHA a written confirmation of its decision.

HC will honor a late billing submission if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

15.2.12 Monthly Billing Payments

[24 CFR 982.355(e), Notice PIH 2016-09]

If the receiving PHA is administering the family's voucher, the receiving PHA bills HC for housing assistance payments and administrative fees. When reimbursing for administrative fees, HC must promptly reimburse the receiving PHA for the lesser of 80 percent of HC's ongoing administrative fee or 100 percent of the

receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing HC under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill.

HC is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after HC receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

HC may not terminate or delay making payments under existing portability billing arrangements as a result of over-leasing or funding shortfalls. HC must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs, as well as for families that remain within its jurisdiction.

15.2.13 Change in Billing Amount

The receiving PHA is required to notify HC, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.);
- An abatement or subsequent resumption of the HAP payments;
- Termination of the HAP contract;
- Payment of a damage/vacancy loss claim for the family; or
- Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide HC with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

15.2.14 Regular Reexamination for Administered Port-Outs

The receiving PHA must send to HC a copy of a portable family's updated form HUD-50058 after each regular reexamination for the duration of time the receiving PHA is billing HC on behalf of the family, regardless of whether there is a change in the billing amount. The reexamination and updated billing are due to HC within 10 business days of the reexamination effective date.

If HC is being billed on behalf of a portable family, and HC fails to receive an updated 50058 by the family's regular reexamination date, HC will contact the receiving PHA to verify the status of the family. HC will continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. HC may seek absorption of the vouchers by following steps outlined by HUD.

15.2.15 Denial or Termination of Assistance

[24 CFR 982.355(c)(17)]

If HC has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, HC may act on those grounds at any time.

15.2.16 Subsequent Household Moves

If a receiving PHA is administering a HC voucher and the family subsequently decides to move out of the receiving PHA's jurisdiction, HC will issue the family a voucher to move and will send form HUD-52665 and supporting documentation to the new receiving PHA.

15.3 PORT-INS

A port-in is when a participant has a voucher issued from another PHA and has found a unit to lease in HC's jurisdiction. When a family ports-in and uses a voucher to lease a unit in HC's jurisdiction, HC's payment standards will apply.

15.3.1 Receiving PHA's Role

If a family has a right to lease a unit in HC's jurisdiction under portability, HC must provide assistance for the family. HUD may determine in certain instances that HC is not required to accept incoming portable families, such as if HC is in a declared disaster area. However, HC must have approval in writing from HUD before refusing any incoming portable families.

Administration of the voucher must be in accordance with HC's policies. HC procedures and preferences for selection among eligible applicants do not apply to the family, and the HC waiting list is not used. The family's unit, or voucher, size is determined in accordance with HC's subsidy standards, and HC's policies on extensions of the voucher term apply.

15.3.2 Responding to Initial PHA's Request

[24 CFR 982.355(c)]

HC will promptly notify the initial PHA whether it will administer or absorb the family's voucher. If HC informs the initial PHA that it will absorb the voucher, HC cannot reverse its decision at a later date without the consent of the initial PHA.

15.3.3 Initial Contact with Family

When a family moves into HC's jurisdiction under portability, the family is responsible for promptly contacting HC and complying with HC's procedures for incoming portable families. The family's failure to comply may result in denial or termination of HC's voucher.

If the voucher issued to the family by the initial PHA has expired, HC will not process the family's paperwork and will refer the family back to the initial PHA. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason HC refuses to process or provide assistance to a family under the portability procedures, the family will be given the opportunity for an informal review or hearing.

15.3.4 Briefing

At its discretion, HC may require port-in families to attend a briefing. HC will provide the family with a briefing packet and inform the family about HC's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

15.3.5 Criminal Background Checks

HC will conduct a criminal background and sex offender registry check on all adult family members who are porting into HC's jurisdiction. HC will follow its policies on screening to guide determinations related to criminal background and sex offender registration screening.

15.3.6 Income Eligibility and Reexamination

For any family moving into its jurisdiction under portability, HC will conduct a new reexamination of family income and composition. HC will not delay issuing the family a voucher for this reason, nor will HC delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and HC cannot otherwise confirm that the family is income-eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, HC will rely upon any verifications provided by the initial PHA to the extent that they:

- Accurately reflect the family's current circumstances, and
- Were obtained within the last 120 days.

Any new information may be verified by documents provided by the family and adjusted, if necessary, when verification is received.

15.3.7 Voucher Issuance

When a family moves into its jurisdiction under portability, HC will issue the family a voucher within two weeks based on the paperwork received, provided:

- The family's paperwork from the initial PHA is complete,
- The family's voucher from the initial PHA has not expired, and
- The family complies with HC's procedures.

15.3.8 Voucher Term

If the initial PHA's voucher expires before HC issues the portable family a voucher, HC will contact the initial PHA to determine if it will extend the voucher term. HC will not issue a voucher to the portable family if the initial PHA voucher term is expired and no extension is authorized by the initial PHA.

Under no circumstances will the term of HC's voucher expire before 30 calendar days from the expiration date of the initial PHA voucher term. For example, if the initial PHA voucher term expires on 7/12/21, HC's voucher term, as the receiving PHA, will not expire before 8/12/21.

15.3.9 Voucher Extensions

[24 CFR 982.355(c)(14), Notice 2016-09]

Once HC issues a voucher to the port-in household, HC's policies on Extensions of Voucher Term apply. HC will notify the initial PHA in writing of any extension granted and request an extension to the billing submission deadline. If the initial PHA will not grant an extension to the billing submission deadline, HC must:

- Intend to absorb the family into its own program, or

- Ensure the expiration date would leave sufficient time to process a Request for Tenancy Approval, execute a HAP contract, and deliver the initial billing to the initial PHA by the deadline.

HC will also consider giving an extension as a reasonable accommodation for a person with a disability.

15.3.10 Voucher Suspensions

[24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a Request for Tenancy Approval (RFTA) during the term of HC's voucher, HC will suspend the term of that voucher. The term of the voucher stops from the date that the family submits a RFTA until the date HC notifies the family in writing whether the request has been approved or denied. If the suspension of the term of the voucher will delay the initial billing submission, HC will notify the initial PHA of the delayed billing in writing before the billing deadline and document that the delay is due to the suspension of the voucher term. If HC meets these requirements, the initial PHA must extend the billing deadline by 30 days; however, if the initial PHA has not received the portability form within the new 30-day deadline, the initial billing is late, and HC may be required to absorb the voucher if the initial PHA is unwilling to accept the late submission.

15.3.11 Notifying the Initial PHA

HC will promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a RFTA for an eligible unit within the term of HC's voucher. HC will use Part II of form HUD-52665, Family Portability Information, for this purpose.

If an incoming portable family ultimately decides not to lease in HC's jurisdiction but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, HC will refer the family back to the initial PHA. In such a case, the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by HC's voucher is only valid for the family's search in HC's jurisdiction.

15.3.12 Administering a Portable Family's Voucher

[24 CFR 982.355(e)]

Initial Billing Deadline

If a portable family's search for a unit is successful and HC intends to administer the family's voucher, HC's initial billing notice (Part II of form HUD-52665) will be completed and mailed so that it is **received** by the initial PHA no later than **90 days** following the expiration of the initial PHA's voucher. A copy of the family's form HUD-50058, Family Report, completed by HC will be attached to the initial billing notice.

If HC fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless:

- The initial PHA is willing to accept the late submission; or
- HUD requires the initial PHA to honor the late submission (e.g., because HC is over-leased).

Billing Procedure

If administering the port-in voucher, HC will bill the initial PHA once a month for Housing Assistance Payments (HAPs). The billing cycle for other amounts, including administrative fees and special claims will

be once a month. HC will bill 100 percent of the HAP and the lesser of 80 percent of the initial PHA prorated column B administrative fee rate or 100 percent of HC's prorated column B administrative fee rate for each unit under HAP contract on the first day of the month for which HC is billing the initial PHA. Additionally, as provided by HUD, HC will prorate administrative fees in accordance with any HUD prorations.

HC will notify the initial PHA of changes in subsidy amounts within 10 business days of any change in the monthly payment.

HC will update Administrative Fees when and if HUD revises the fees and/or related prorations.

Unless the HC negotiates a different amount of reimbursement with the initial PHA, the HC will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

Regular Reexamination

[Notice PIH 2016-09, HUD-52665]

HC will send the initial PHA a copy of a portable family's updated form HUD-50058 after each regular reexamination for the duration of time the HC is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

Change in Billing Amount

HC will notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments;
- Termination of the HAP contract;
- Payment of a damage/vacancy loss claim for the family; and/or
- Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

If HC fails to send Form HUD-52665 within 10 business days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

Late Payments

[Notice PIH 2016-09]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, HC will promptly notify the initial PHA in writing (and in accordance with HUD requirements) of

the deficiency. HC will send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA.

If the initial PHA fails to correct the problem by the second month following the notification, HC may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the voucher in question. A copy of the initial notification and any subsequent correspondence between PHAs on the matter must be attached. HC will send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to HC.

Overpayments

[Notice PIH 2016-09]

In all cases where HC has received billing payments for billing arrangements no longer in effect, HC is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

Denial or Termination of Assistance

At any time, HC may make a determination to deny or terminate assistance to a portable family for family action or inaction consistent with the denial and termination policies in this Plan.

If HC elects to deny or terminate assistance for a portable family, HC will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. HC will furnish the initial PHA with a copy of the review or hearing decision, where applicable.

15.3.13 Absorbing a Portable Family

HC may absorb an incoming portable family into its own program when HC executes a HAP contract on behalf of the family or at any time thereafter providing that:

- HC has funding available under its annual contributions contract (ACC), and
- Absorbing the family will not result in over leasing.

If HC notifies the initial PHA that it will absorb the voucher, it cannot reverse its decision at a later date without consent of the initial PHA.

If HC decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, HC will notify the initial PHA upon receipt of the portability paperwork. The effective date of the HAP contract will be the effective date of the absorption.

If HC decides to absorb a family after administering the voucher, HC will provide the initial PHA with 30 days advance notice, but no later than 10 business days following the effective date of the termination of the billing arrangement.

When a portable family is absorbed by HC, the family will be subject to HC policies.

15.4 SPECIAL PURPOSE VOUCHERS AND PORTABILITY

HC will administer special purpose vouchers (i.e., VASH, etc.) in accordance with HUD-established policy in cases where HUD has established alternative program requirements of such special purpose vouchers.

HC will use the codes for the special purpose vouchers on the 50058 and continue to use such codes while HC is administering a portable voucher.

CHAPTER 16: REEXAMINATIONS AND CONTINUED OCCUPANCY

16.1 OVERVIEW

HC periodically reexamines each family's income and composition and adjusts the family's level of assistance accordingly. Interim reexaminations may also be needed in certain situations. This chapter discusses both regular and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result.

16.2 GENERAL REQUIREMENTS

16.2.1 Requirements for Continued Occupancy

In order for the family to be eligible for continued occupancy, they must:

1. Qualify as a household as defined in this policy;
2. Maintain full compliance with the family obligations and responsibilities as described in the family obligations form;
3. Not commit any serious or repeated violation of the lease;
4. Supply any information that HC or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status;
5. Meet HUD standards on citizenship or immigration status or pay a prorated rent;
6. Upon implementation of HOTMA, comply with the Asset Restrictions;
7. Supply any information that HC or HUD determines to be necessary for use in a regularly scheduled reexamination or interim reexamination of family income and composition, and that information must be true and complete;
8. Disclose and verify Social Security numbers and sign and submit consent forms for obtaining information or have certifications on file indicating that they are not eligible to receive a Social Security number;
9. Use the assisted unit for residence by the family and as the family's only residence;
10. Allow HC to inspect the unit at reasonable times and after reasonable notice;
11. Be responsible for any NSPIRE breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest;
12. Pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease;
13. Promptly notify HC in writing of the birth, adoption, or court-awarded custody of a child, and request HC approval to add any other household members as occupants of the unit. HC's approval of such additions is subject to the household composition requirements;
14. Promptly notify HC in writing if any household member no longer lives in the unit.

15. Comply with lease requirements regarding notification to HC and the owner before moving out of the unit or terminating the lease;
16. Never sub-lease or sub-let the unit, and never assign the lease or transfer the unit;
17. Supply any information requested by HC to verify that the family is living in the unit or information related to family absence from the unit;
18. Promptly notify HC when the family is absent from the unit;
19. Promptly give HC a copy of any owner eviction notice;
20. Never commit fraud, bribery or any other corrupt or criminal act in connection with the programs.
21. Never 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;
22. 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;
23. Not own or have any interest in the unit (other than in a cooperative and owners of a manufactured home leasing a manufactured home space); and
24. Not receive HCV program assistance while residing in a unit owned by a spouse, parent, child, grandparent, grandchild, sister or brother of any member of the family, unless HC has determined (and has notified the owner and the household of such determination) that approving rental of the unit, notwithstanding such relationship, would provide a reasonable accommodation for a household member who is a person with a disability.

16.2.2 Notice to Ineligible Households

HC will provide prompt written notice of a decision that the household has been determined to be ineligible for continued program participation. The written notice will contain a statement of the reason for the ineligible decision. The notice will include information related to requesting an informal hearing in the event that the tenant does not agree with the determination.

16.2.3 Time Frames for Reporting Changes Required by Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify HC of a change, notifying HC of the request or change in writing within 10 business days is considered prompt notice.

16.2.4 Discrepancies

During a regular or interim reexamination, HC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. See PROGRAM INTEGRITY.

In addition, HC may discover errors made by HC. When errors resulting in the overpayment or underpayment of rent are discovered, HC will make corrections to the rent.

16.3 REGULAR REEXAMINATIONS

[24 CFR 982.516]

HC will periodically conduct a reexamination of family income and composition. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent will be recalculated.

16.3.1 Frequency of Regular Reexaminations

The required frequency of a household's regular reexamination varies according to the program and household type. Generally the recertification frequency is as follows:

1. **MTW Stepped Rent Treatment Group:** Triennial (every three years)
2. **MTW Excluded Groups**

   (including Non-MTW Special Purpose Vouchers/SPV households i.e. VASH, Mainstream, FUP)

   a) Elderly/Disabled households: Triennial (every three years)*

   In addition to MTW elderly/disabled households, HC has been approved to implement triennial recertifications (every three years) for elderly/disabled non-MTW SPV households (i.e. VASH, Mainstream, FUP). However, non-MTW SPV households are currently being administered on an annual recertification frequency. HC plans to begin transitioning non-MTW SPV elderly/disabled households to triennial recertifications in FY 2025.

   b) All other households: Annual
3. **MTW Control Group:** Annual

MTW Policy

MTW Waiver: 3.b. – Alternative Reexamination Schedule for Households (HCV)

Approval Date:

- MTW Stepped Rent Treatment Group: FY 2022-FY 2023
- MTW Excluded Group – Elderly/Disabled non-SPV households: FY 2023-2024
- Mainstream and FUP (elderly and disabled): FY 2023-2024*
- VASH: March 2024*

**Approved but not yet implemented for non-MTW elderly/disabled SPV households; plan to begin implementation in FY 2025.*

Applicable to: MTW Stepped Rent Treatment Group and elderly/disabled households in the MTW Excluded Group.

Description: This activity allows HC to establish an alternative reexamination schedule wherein regular recertifications are conducted at least once every three years ("triennial" recertifications).

Phase-In for MTW Excluded Group: HC will phase in the triennial recertification frequency over a three year period for the excluded group. During the first year, one third of families in the excluded group will complete a recertification. During years two and three, one third of remaining families in the excluded group will complete a recertification so that all families will

be on a triennial recertification frequency by the end of year three. Families will be selected randomly to determine their initial phase-in year.

16.3.2 Scheduling Reexaminations

Generally, HC will begin the regular reexamination process 90-120 days in advance of its scheduled effective date.

If the family moves to a new unit, HC will perform a new regular reexamination and establish a reexamination anniversary date consistent with the new lease effective date.

HC also may schedule a regular reexamination for completion prior to the anniversary date for administrative purposes.

16.3.3 Participation in the Regular Reexamination Process

At least 120 days in advance of the scheduled annual recertification date, HC will send a recertification package to the head of household. The entire package, including all required third party verifications, must be returned on or before the due date listed. If a family fails to respond or provide the package and required paperwork, HC will send a second notification with a second due date. If a family fails to respond to both notices, a third notification will be sent out with a final due date. If the family fails to respond or provide the package and required paperwork for the third time, a notice of termination will be sent to the family's address of record and to any alternate address provided in the family's file.

Generally, HC will complete recertification processes via mail or email; however families may be required to participate in a regular reexamination interview, at the discretion of HC. HC may require all adult household members attend the recertification interview, if an interview is required. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact HC to request a reasonable accommodation. If the family is unable to attend a scheduled interview, the family should contact HC in advance of the interview to schedule a new appointment.

In all circumstances, if a family does not respond to three attempts for HC to collect the requested information – either written or in-person attempts – then the family's assistance may be terminated.

An advocate, interpreter, or other assistant may assist the family in the interview process.

16.3.4 Determining Ongoing Eligibility of Certain Students

[24 CFR 982.552(b)(5)]

During the regular reexamination process, HC will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents.

Students who reside with parents in an HCV-assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

If a student enrolled in an institution of higher education meets the qualifications outlined in the policies on Students Enrolled in Institutions of Higher Education the student's income eligibility is examined alone; however if the student does not meet the qualifications of the policies identified above, the students eligibility must be reexamined along with the income eligibility of the student's parents at the time of regular reexamination.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), HC will process a reexamination in accordance with the policies in this chapter.

16.3.5 Calculating Annual Income at Regular Reexamination

[24 CFR 5.609(c)(2) and Notice PIH 2023-27]

See Determining Income at Regular Recertifications for information on how to verify and calculate income of the family at regular recertification. Policies may differ according to program/voucher type (i.e. if the household is in the MTW Stepped Rent Treatment, Control, or Excluded group, or has a non-MTW voucher) and type of transaction.

16.3.6 Effective Dates

[24 CFR 982.516]

Increase in Family Share of Rent

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

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.
- If HC chooses to schedule a regular reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HC, but will always allow for the 30-day notice period.
- If the family causes a delay in processing the regular reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the regular reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Repayment Agreements.

Decrease in Family Share of Rent

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

- If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.
- If HC chooses to schedule a regular reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by HC.
- If the family causes a delay in processing the regular reexamination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by HC by the date specified, and this delay prevents HC from completing the reexamination as scheduled.

16.4 CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

16.4.1 Reporting

The family is required to report all changes in family composition within 10 business days from the date of the change. HC will conduct interim reexaminations to account for any changes in household composition that occur between regular recertifications.

Failure to timely report changes in household composition may result in a termination from the program, retroactive rent increase, and/or a repayment agreement.

16.4.2 Addition of a Family Member

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require prior HC approval; however, the family must inform HC of the birth, adoption, or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, families must request HC approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days in a 12-month period or 90 cumulative days within a 12-month period and therefore no longer qualifies as a *guest* (see Guests). Requests must be made in writing and approved by HC prior to the individual moving into the unit.

HC will follow the policies below regarding changes in household composition.

1. HC will not approve the addition of a family member outside of birth, adoption, court-ordered custody, marriage, interdependent relationship and live-in aide if such addition results in the need for a change in unit size. Additionally, HC will not approve the addition of a new family or household member unless the individual meets HC's eligibility criteria and documentation requirements.
2. HC will not approve the addition of a foster child or foster adult if it will result in overcrowding of the existing unit. HC may consider, on a case-by-case basis, providing the subsidy standard for an additional bedroom if the authorized placement agency (e.g., public child welfare agency) requires that the foster child have a separate bedroom.
3. Before persons age 18 or older will be added to the family, they will be subject to the same criminal history screening used for all applicants.
4. Additional household members must be authorized by HC and approved by the owner through an amendment to the lease agreement.

5. If HC determines that an individual does not meet HC's eligibility criteria or documentation requirements, HC will timely notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

16.4.3 Removal of a Family or Household Member

Families must promptly notify HC if any family member no longer lives in the unit. Because household members are considered when determining the family unit (voucher) size, HC also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

If a family member or household member ceases to reside in the unit, the family must inform HC within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

All requests to remove a household member must be accompanied by supporting documentation that the member that the family seeks to remove has another verifiable address. Examples of such documentation could include utility bills in the name of the subject, canceled checks verifying payment of rent, driver's license indicating an address at a location corresponding to the utility billing or lease, or lease agreement in his/her name at another location.

16.4.4 Return of Permanently Absent Family Member

The family must request HC approval for the return of any adult family members that HC previously determined to be permanently absent. The individual is subject to HC's eligibility and screening requirements and HC policies on changes in household composition.

16.5 INTERIM REEXAMINATIONS

[24 CFR 982.516; Notice PIH 2023-27]

Family circumstances may change between regular reexaminations. HUD and HC policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances HC must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. HC will conduct any interim reexamination within a reasonable period of time after the family request or when HC becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations, provided all necessary supporting documentation is provided timely.

Interim reexaminations for changes in income or expenses may be scheduled either because HC has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

HC will estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination. See Determining Income at Admission and Interims.

16.5.1 Interim Decreases

[24 CFR 982.516(c)(2) and Notice PIH 2023-27]

Households experiencing decreases in income or increases in expenses between regular recertifications may be eligible for an interim reexamination, according to the policies below:

1. **MTW Excluded Group, MTW Control Group, and Non-MTW Households:**

A family may request an interim determination of family income for any change since the last determination. HC will perform an interim reexamination for any decrease in adjusted income.

However, if the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then HC will process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income. See Non-Interim Reexamination Transactions.

2. **MTW Stepped Rent Treatment Group:**

> ***MTW Policy***
>
> **MTW Waiver:** 3.b. & 3.b.ii. (Safe Harbor) – Alternative Reexamination Schedule for Households
>
> **Approval Date:** FY 2022
>
> **Applicable to:** MTW Stepped Rent Treatment Group households
>
> **Description:** Households in the MTW Stepped Rent Treatment Group are recertified on a triennial basis with no interim recertifications.
>
> However, these households may be eligible to apply for an income decrease or other hardship pursuant to HC's MTW Hardship policies.
>
> *Note: Although interim recertifications are not permitted for MTW Stepped Rent Treatment group households, approved MTW hardships will generally be processed in HC's system and submitted to HUD systems as interim recertifications, unless instructed otherwise by HUD.*

16.5.2 Interim Increases

[24 CFR 982.516(c)(3) and Notice PIH 2023-27]

Pre-HOTMA Final Rule (Sections 102 and 104) Implementation:

1. **MTW Stepped Rent Treatment Group**

> ***MTW Policy***
>
> **MTW Waiver:** 1.d. – Stepped Rent
>
> **Approval Date:** FY 2022-FY2023
>
> **Applicable to:** MTW Stepped Rent Treatment Group
>
> **Description:** Income increases between regular recertifications do not need to be reported and will not result in rent increases between recertifications.

2. **MTW Excluded Group, MTW Control Group and Non-MTW Households**

   Households must report, and HC will process an interim reexamination, for all increases in income that occur in between regular recertifications.

Post-HOTMA Final Rule (Sections 102 and 104) Implementation

Note: the following section is only applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104). Upon implementation, this section will replace the pre-HOTMA definition and section above.

1. **MTW Stepped Rent Treatment Group**

MTW Policy

MTW Waiver: 1.d. – Stepped Rent

Approval Date: FY 2022-FY2023

Applicable to: MTW Stepped Rent Treatment Group

Description: Income increases between regular recertifications do not need to be reported and will not result in rent increases between recertifications.

2. **MTW Excluded Group, MTW Control Group and Non-MTW Households**

Households are required to report all increases in income to HC within 10 business days of the change. In some cases, the change may be applied to the household's rent calculation immediately; however in other cases the change may be deferred until the household's next regular recertification, according to household circumstance(s). See applicable policies below.

- **Zero Income Households**: zero income households are required to report any increase in any type of income, including cash and non-cash contributions, between regular recertifications. HC will conduct an interim recertification and increase in rent for zero income families when income is received.
- **Increases in Earned Income:** other than zero income households, when a family reports an increase in their ***earned income*** between regular reexaminations, HC will not conduct an interim reexamination, regardless of the amount of the increase, unless the household has had a previous decrease since the family's last regular reexamination.
- **Increases in Unearned Income:** HC will process an interim reexamination for any increases in ***unearned income*** of 10 percent or more in adjusted income.
- **Concurrent Increases in Earned and Unearned Income:** when the family reports an increase in both earned and unearned income at the same time, HC will review the earned and unearned income changes independently of each other to determine if an interim reexamination is required to be performed.
- **Cumulative Increases:** a series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10 percent increase threshold, at which point HC will conduct an interim reexamination in accordance with HC policy.
- **Increases in Income within 3 Months of the Regular Recertification Date:** HC will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their regular reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases.

16.5.3 Effective Dates

[24 CFR 982.516(e) and Notice 2023-27]

In general, an *increase* in the family share of the rent will require at least 30 days advance notice to the household. However, if changes are not reported timely and/or if proper documentation is not provided as requested by HC within required timeframes then changes may be applied retroactively or without 30 days advance notice.

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent *decrease*, HC will apply the decrease the first of the month following completion of the interim reexamination.

However, HC may apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to HC management operations. HC may decide to apply decreases retroactively on a case-by-case basis.

When HC applies the results of interim decreases retroactively, HC will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with HC policies. HC will also clearly communicate the effect of the retroactive adjustment to the owner.

16.6 RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

After gathering and verifying required information for an annual or interim reexamination, HC will recalculate the family share of the rent and the subsidy amount, if required, and will notify the family and owner of the changes.

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in HC's calculations.

Policies may differ according to whether the household is in the MTW Stepped Rent Treatment, Excluded, or Control group, or has a non-MTW voucher; in addition to what type of transaction is being completed (i.e. regular recertification or interim recertification). See the following sections in the PAYMENT STANDARDS AND UTILITY ALLOWANCES chapter for information about how and when to update payment standards, subsidy standards, and/or utility allowances when recalculating tenant rent and subsidy amounts.

- Applying Payment Standards
- Changes in Family Voucher Size
- Applying Utility Allowances

HC will notify the owner and family of any changes in the amount of the HAP payment within required timeframes.

16.7 OTHER CONTINUED OCCUPANCY POLICIES

16.7.1 Absence from the Unit

The family must supply any information or certification requested by HC to verify that the family is living in the unit, or relating to family absence from the unit, including any HC-requested information or certification on the purposes of family absences. The family must cooperate with HC for this purpose.

The family must promptly notify HC when all family members will be absent from the unit for an extended period. An *extended period* is defined as any period greater than 30 calendar days. In such a case, promptly means within 15 calendar days of the start of the extended absence.

If a family is absent from the assisted unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, HC will terminate the lease for other good cause.

HC may review on a case-by-case basis, circumstances which dictate a household's absence from the unit. Each household member must physically occupy the unit as their sole place of residence, and not be absent for 180 consecutive days during any 12-month period unless good cause is shown for a longer absence. Good cause for extended absences include, but is not limited to:

- Involuntary absence due to illness;
- Absence of a household member who is a full-time student;
- Children temporarily away due to placement in foster care; or
- Military service (see policy on Military Families – Absence from the Unit and Continued Occupancy).

The head of household must notify HC and remove any household member from the lease who is absent from the unit without cause for more than 180 consecutive days.

- Extended absence for more than 180 consecutive days during any 12-month period due to incarceration is not considered good cause.
- To verify family occupancy or absence, HC may send request letters to the family at the unit, make phone calls or visits, send emails, schedule special inspections, and/or conduct other appropriate inquiries.
- The family must remain in compliance with the terms of the public housing program and their lease during any absence from the unit.
- HC will consider mitigating circumstances when determining good cause for an extended absence.

16.7.2 Military Families – Absence from the Unit and Continued Occupancy

On a case-by-case basis, HC will make reasonable exceptions to program requirements for active duty military families, to the extent HC can do so while responsibly administering the housing program.

These exceptions will be granted at HC's sole discretion, and should be primarily granted with respect to program requirements impacted by household members who are temporarily absent from their unit due to their active duty.

Exceptions must be approved by the department director or their designee. Households who cannot adhere to basic program requirements without the active military person present will not be granted exceptions.

Exceptions related to military families may include, but are not limited to:

- Allowing a suitable guardian to move into the unit on a temporary basis to care for any dependents that the military person leaves in the unit. Income of the guardian temporarily living in the unit solely for this purpose is not to be counted in determining household income and rent;
- Carefully considering the circumstances of any case involving delayed payment of rent by the household;
- Granting exceptions to the Administrative Plan policies concerning family absences from the unit;
- Using provisional documents and income information to complete a reexamination and then conducting an interim reexamination when the military personnel's information is available.

16.7.3 Family Break-Up and Remaining Members

Resident families who separate while being assisted under the voucher program will be assessed on a case-by-case basis to determine which family members remain assisted under the program. HC policy is as follows:

- The head of household, co-head or remaining family member of the household who has full legal custody of any minor children in the unit will retain the use of the voucher.
- In cases where the head of household and co-head have a joint custody arrangement for minor children, the original head of household will retain the use of the voucher.
- In cases where the head of household dies, leaving minor children, the new head of household will be subject to all HC eligibility and admission requirements.
- HC may allow a guardian or caretaker to temporarily reside in the unit with continued assistance of the voucher. If the guardian or caretaker applies to become the new head of household, they must meet the eligibility requirements as set forth in this Plan. HC will allow a temporary guardian or caretaker to remain in the assisted unit for up to 90 days.
- In cases where there is a head of household and a co-head with no minor children, the original head of household will retain the use of the voucher, unless another consideration listed here is a factor.
- In the event that the head of household moves out of the assisted unit or dies, a remaining adult family member (with or without children in the unit) may retain use of the voucher if that adult has been part of the household since admission or if they were added to the household, have been an approved member for at least 6 months; are in compliance with all program rules and regulations; and meet all other program eligibility and continued occupancy requirements.
- In cases where a live-in aide is added to a household as a result of a care situation for an elderly or disabled household member, the live-in aide is not considered to be a remaining family member (even if related) and is not eligible to retain the use of the voucher.
- Foster children and foster adults are never considered remaining family members and have no rights to the voucher when and if the head of household or co-head moves out of the unit, is evicted or is deceased.

- If a separation is the result of a divorce or separation under a settlement or judicial decree, HC will follow any court determination of which family members retain the voucher.
- In order for a minor to continue to receive assistance as a remaining family member, the court has to have awarded emancipated minor status to the minor or HC has to verify that Social Services and/or the Juvenile Court has arranged for another adult to be brought into the household to care for the child(ren) for an indefinite period of time.
- If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, HC will ensure that the victim remains on the program.
- For any family members who are elderly or disabled, HC will take into consideration where they will reside after the break-up.
- If exceptional circumstances exist concerning the remaining member of a tenant family, a discretionary administrative determination may be made by the voucher program designee on a case-by-case basis.

16.7.4 Guests and Unauthorized Occupants

Participant households are not permitted to allow roomers or boarders to occupy their unit, or to sublet their unit. Violation of this provision is grounds for termination of participation. See policy on Guests.

Persons not on the lease who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence represents a violation of program requirements.

CHAPTER 17: PAYMENT STANDARDS AND UTILITY ALLOWANCES

17.1 PAYMENT STANDARDS

[24 CFR 982.503; HCV GB, Chapter 7; Notice PIH 2024-34]

17.1.1 Overview

The payment standard sets the maximum subsidy payment a family can receive from HC each month. HC's payment standards are based on Fair Market Rents (FMRs) published annually by HUD.

17.1.2 Establishing Payment Standards

HC may establish a payment standard within the "basic range" established by HUD—between 90 and 110 percent of the published FMR for each unit size—without HUD approval or prior notification to HUD. For each payment standard area, HC may set different payment standards for different unit sizes.

➔ Subject to HUD approval of HC's FY 2027 MTW Supplement, HC may establish payment standards up to 120 percent of the published FMR, as described in MTW Waiver 2.b. below.

In addition, HC has approval under an approved safe harbor waiver under MTW Waiver 2.b.i. to establish a higher payment standard as a reasonable accommodation for a person with a disability (see Reasonable Accommodation and Payment Standards).

MTW Policy

MTW Waiver: 2.b. – Payment Standards- Fair Market Rents

Approval Date: Pending approval of FY 2027 MTW Supplement

Applicable To: All households

Description: Upon approval from HUD, HC may utilize this MTW activity to establish general HCV program payment standards up to 120% of the applicable Fair Market Rent (FMR), subject to rent reasonableness requirements and available funding. HC may utilize this flexibility to support housing choice and respond to local market conditions.

HC may also use these payment standards, in conjunction with MTW Waiver 9.g, to increase Project-Based Voucher (PBV) rents to owners, including when needed to facilitate the financial feasibility of public housing repositioning activities, including RAD conversions, RAD/Section 18 blend transactions, and other HUD-authorized redevelopment and repositioning initiatives (see Determining Rent To Owner in the PBV chapter).

17.1.3 Updating Payment Standards

HC will review the appropriateness of the payment standards on an annual basis when the new FMRs are published, and at other times as determined necessary.

HC may consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

1. Funding availability;

2. Rent burden of participating families;
3. Quality of units selected;
4. Frequency and amount of changes in rent to owner;
5. Unit availability; and
6. Lease-up time and success rate.

17.1.4 Applying Payment Standards

[24 CFR 982.505]

HC's schedule of payment standards is used to calculate housing assistance payments for HCV families. The payment standard for a family is the lower of:

1. The payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under HC's subsidy standards; or
2. The payment standard for the size of the dwelling unit rented by the family.

The payment standard for a Single Room Occupancy (SRO) unit is 75% of the zero-bedroom payment standard.

Applying Payment Standards at Regular Recertification

At regular reexaminations, HC will apply the Applicable Payment Standard (APS), which is the lower of the authorized voucher size or unit size, unless the APS has decreased (see Changes in Payment Standards) in which case HC will continue to apply the current APS.

Applying Payment Standards at Stepped Rent Increases

MTW Policy

MTW Waiver: 1.d. – Stepped Rent

Approval Date: FY 2022-FY 2023

Applicable to: MTW Stepped Rent Treatment Group

Description: For MTW Stepped Rent Treatment Group households, the APS will be updated at the annual stepped rent increase (processed in HC's system as an interim reexamination), in addition to at the household's triennial recertification.

Applying Payment Standards at Interim Reexamination

MTW Policy

MTW Waiver: 3.b. – Alternative Reexamination Schedule for Households (HCV)

Approval Date:

- MTW Stepped Rent Treatment Group: FY 2022-FY 2023
- MTW Excluded Group – Elderly/Disabled non-SPV households: FY 2023-2024
- Mainstream and FUP (elderly and disabled): FY 2023-2024*

- VASH: March 2024*

**Approved but not yet implemented for elderly/disabled SPV households; plan to begin implementation in FY 2025.*

Applicable to: MTW Stepped Rent Treatment Group and elderly/disabled households in the MTW Excluded Group.

Description: For households on a triennial reexamination cycle (see Frequency of Regular Reexaminations), the following policy applies:

If the payment standard amount has increased during the term of a HAP contract, HC will use the increased payment standard amount to calculate the monthly housing assistance payment for the family the earlier of the following:

(1) The effective date of an increase in gross rent that would result in an increase in the family share; or

(2) The family's first regular reexamination following the change.

Pending approval of HC's FY2025 MTW Supplement: other than as noted above, HC will not process a recertification for increases in the payment standard amount that occur during the HAP contract term between regular recertifications.

17.1.5 Changes in Payment Standards

HC typically updates its payment standards on an annual basis in concert with updates to the FMRs. However, HC reserves the right to modify payment standards at other times to support leasing goals and in response to market conditions.

When HC revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance the policies in this Plan.

If HC has already processed recertifications that will be effective on or after the effective date of the new payment standard, HC will not make retroactive payment standard adjustments for any such recertifications.

If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Decreases

24 CFR 982.505(c)(3)

If HC changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, HC will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

Increases

24 CFR 982.505(c)(4)

- **Control Group households:** If the payment standard amount is increased during the term of the HAP contract, HC will use the increased payment standard amount to calculate the monthly housing assistance payment for the family beginning no later than the earliest of:
    - The effective date of an increase in the gross rent that would result in an increase in the family share;
    - The family's first regular or interim reexamination; or
    - One year following the effective date of the increase in the payment standard amount.
- **All other households:** If the payment standard amount has increased during the term of a HAP contract, HC will use the increased payment standard amount to calculate the monthly housing assistance payment for the family the earlier of the following:
    - The effective date of an increase in gross rent that would result in an increase in the family share; or
    - The family's first regular reexamination following the change.

Other than as noted above, HC will not process a recertification for increases in the payment standard amount that occur during the HAP contract term between regular recertifications.

See MTW policies on Applying Payment Standards at Interim Reexamination for information on when payment standards may be updated during interim reexaminations for households on triennial recertifications.

17.1.6 Changes in Family Voucher Size

[24 CFR 982.505(c)(4)]

Irrespective of any increase or decrease in the payment standard, if the family voucher size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family.

The new voucher size will be applied as follows:

- **MTW Stepped Rent Treatment Group**

MTW Policy
MTW Waiver: 1.d. – Stepped Rent
Approval Date: FY 2022-FY 2023
Applicable to: MTW Stepped Rent Treatment Group
Description: For MTW Stepped Rent Treatment Group households, the family voucher size will be updated at the annual stepped rent increase (processed in HC's system as an interim reexamination), in addition to at the household's triennial recertification.

- **MTW Excluded Group, MTW Control Group and Non-MTW Households**: HC will update the voucher size at the family's first *regular reexamination* following the change in family size.

See Determining Family Voucher Size and Changes in Family and Household Composition.

17.1.7 Reasonable Accommodation and Payment Standards

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, HC may establish a higher payment standard for the family of not more than 120 percent of the applicable published FMR (or in the case of VASH, up to 140% of the FMR), as long as the rent is reasonable.

> ***MTW Policy***
>
> **MTW Waiver:** 2.b.i (Safe Harbor Waiver) – MTW Reasonable Accommodation Exception Payment Standard
>
> **Approval Date:** FY 2023-2024
>
> **Applicable To:** All households
>
> **Description:** This activity allows HC to utilize an MTW reasonable accommodation exception payment standard (PS) without consideration for the 120% Fair Market Rent (FMR) limitation and without prior HUD approval; however, the approved reasonable accommodation payment standard may not exceed 150% of FMR and must be rent reasonable. Reasonable accommodation exception payment standards will be used to assist families with disabled individuals in finding affordable units that include the features needed to address their disabilities.

The exception payment standard for the specific dollar amount approved by HC (or HUD, if applicable) remains effective as long as the family has a disability-related need for the features of the approved unit, and the rent remains reasonable.

17.1.8 Exception Payment Standards

[24 CFR 982.503(d), Notice PIH 2018-01, FR Notice 9/27/21, Notice PIH 2024-34]

There are several options available to increase payment standards above the basic range. These are known as exception payment standards, which are payment standards that exceed 110 percent of the published FMR. See PIH Notice 2024-34 for more information.

The following are types of exception payment standards:

- **Payment standards based on SAFMRs in ZIP codes where the SAFMR is higher than the applicable metropolitan or non-metropolitan county FMR:**

  If HC is not utilizing SAFMRs to establish its payment standards then, upon notification to HUD, HC may establish an exception payment standard for a ZIP code area that exceeds the basic range for the metropolitan area or county FMR of up to and including 110 percent of the SAFMR for that ZIP code area. If an exception area crosses one or more FMR boundaries, then the maximum exception payment standard amount that HC may adopt for the area without HUD approval is 110 percent of the ZIP code area with the lowest SAFMR amount. If HC adopts an exception payment standard pursuant to this authority then the exception payment standard must apply it to the entire ZIP code area.

- **Payment standards greater than 110 percent up to 120 percent of the applicable FMR:**

Upon notification to HUD, HC may establish exception payment standards between 110 percent and 120 percent of the applicable FMR if HC meets one of the following criteria:

- Success rate: Fewer than 75 percent of families to which the PHA has issued tenant-based vouchers during the most recent 12-month period for which there is success rate data available have become participants on the program; or
- Rent burden: More than 40 percent of families with tenant-based assistance pay more than 30 percent of their adjusted income as their family share.

HC may revert back to the basic range at any time without notification to HUD.

HC may combine exception payment standards based on the SAFMR and exception payment standards greater than 110 and up to 120 percent.

- **Payment standards over 120 percent of the applicable FMR:**

  HC may request approval from HUD to establish an exception payment standard amount that exceeds the basic range of the applicable FMR under 24 CFR 982.503(d)(4).

- **Payment standards necessary as a reasonable accommodation** (see also MTW Policy on Reasonable Accommodation and Payment Standards).

- **Other Exception Payment Standards:**

  HC may request HUD approval to establish exception payment standards up to 120 percent of the FMR when the above criteria do not apply or in order to establish exception payment standards that exceed 120 percent of the FMR. Requests may be made for an entire FMR area or a designated part of the FMR area.

- **Veterans Affairs Supportive Housing (HUD-VASH) exception payment standards**

  HC may establish a separate exception payment standard applicable to HUD-VASH participants. HC may establish payment standards up to 120% of FMR or SAFMR for this program.

  HC may request HUD approval to establish exception payment standards over 120% for the HUD-VASH program.

  HC may also establish an exception payment standard up to 140% of the published FMR or SAFMR as an approved reasonable accommodation for a HUD-VASH family that includes a person with a disability.

  HC may request HUD approval to use a payment standard that is greater than 140% of FMR or SAFMR as an approved reasonable accommodation for a HUD-VASH family that includes a person with a disability.

  Exception payment standards implemented by HC under this section may also apply in determining rents for PBV projects only when the project is comprised solely of units exclusively made available to HUD-VASH families. Contract rents established for the project may not be different based on whether the unit is a HUD-VASH PBV unit or a non-HUD-VASH PBV unit.

17.2 UTILITY ALLOWANCES

[24 CFR 982.517]

17.2.1 Utility Allowance Schedule

HC's established utility allowance schedule is used in determining family share and HC subsidy. HC will maintain a utility allowance (UA) schedule for:

- All tenant-paid utilities,
- The cost of tenant-supplied refrigerators and ranges, and
- Other tenant-paid housing services such as trash collection.

The utility allowance will include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, HC will classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

A family's utility allowance is determined by the lower of the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using HC subsidy standards.

MTW Policy

MTW Waiver: 1.j. – Alternative Utility Allowance

Approval Date: FY 2022

Applicable To: All households

Description: HC has established an Alternative Utility Allowance ("Alt UA"), which calculates utility allowances without consideration for the unit's building type. The Alt UA is calculated based on the number of bedrooms in the unit or the voucher size, whichever is lower.

17.2.2 Applying Utility Allowances

[24 CFR 982.517(d)]

Applying Utility Allowances at Regular Recertification

At regular reexaminations, HC will apply the applicable utility allowance, which is the lower of the authorized voucher size or unit size.

Applying Utility Allowances at Stepped Rent Increases

MTW Policy

MTW Waiver: 1.d. – Stepped Rent

Approval Date: FY 2022-FY 2023

Applicable to: MTW Stepped Rent Treatment Group

Description: For MTW Stepped Rent Treatment Group households, the UA will be updated at the annual stepped rent increase (processed in HC's system as an interim reexamination), in addition to at the household's triennial recertification.

Applying Utility Allowances at Interim Reexamination

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the updated utility allowance until their next regular recertification.

17.2.3 Changes in Utility Allowances

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in HC's utility allowance schedule.

When there are changes in the utility arrangement with the owner, HC will use the utility allowances in effect at the time the new lease and HAP contract are executed.

17.2.4 Utility Allowance Reasonable Accommodations

HC may approve an allowance amount higher than the utility allowance schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. The family must request the higher allowance and provide the HC with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required.

17.2.5 Utility Allowance Schedule Revisions

HC may periodically, at its discretion, update its Alternative Utility Allowance Schedule. Annual updates to the schedule are not required; however, HC will periodically review the rates of local providers, including but not limited to, Rocky Mountain Power and Dominion Energy, to determine if the average five-year rate change is greater than 10%. Where the average five-year rate change is greater than 10%, HC will complete a review and update of the Alt UA schedule. HC will maintain information supporting its periodic review of utility allowance and any revisions made in its utility allowance schedule.

Revised utility allowances will generally be applied to a family's rent and subsidy calculations at the first regular reexamination that is effective after the allowance is adopted (or at the annual stepped rent increase for MTW Stepped Rent households). If HC has already processed recertifications that will be effective on or after the effective date of the new utility allowance schedule, HC will not make retroactive utility allowance adjustments for any such recertifications.

CHAPTER 18: INFORMAL REVIEWS AND HEARINGS

18.1 OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of HC that may adversely affect them. HC decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of HC decisions is called the *informal review*.

For participants (or applicants denied admission because of citizenship issues), the appeal process is called an *informal hearing*.

18.2 INFORMAL REVIEWS – APPLICANTS

An informal review is available to program applicants. An applicant is someone who has applied for admission to the program but is not yet a participant in the program.

18.2.1 Decisions Subject to Informal Review

[24 CFR 982.554(a) and (c)]

HC must give an applicant the opportunity for an informal review of a decision denying assistance. Denial of assistance may include any or all of the following:

- Denying listing on an open HC HCV waitlist.
- Denying or withdrawing a voucher.
- Refusing to enter into a HAP contract or approve a lease.
- Refusing to process or provide assistance under portability in accordance with HUD regulations, (i.e., when there are inadequate funds available to provide assistance).
- A determination to deny assistance based on an unfavorable history that may be the result of domestic violence, dating violence, sexual assault, stalking or human trafficking (see Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault, Stalking and Human Trafficking).

18.2.2 Decisions Not Subject to Informal Review

An applicant is not given the opportunity of an informal review in the following situations:

- Discretionary administrative determinations by HC.
- General policy issues or class grievances.
- A determination of the family unit size (voucher size) under HC' subsidy standards.
- An HC determination not to approve an extension or suspension of the voucher term.

- An HC determination not to grant approval of the tenancy (i.e., the unit is too expensive based on the applicant's reported income, the rent is not reasonable, or the owner's history with HC requires a denial).
- A HC determination that the unit does not meet NSPIRE standards.
- A HC determination that the unit does not meet NSPIRE standards based on family size or composition.

18.2.3 Notice to the Applicant

[24 CFR 982.554(a)]

When HC makes a decision that is subject to informal review procedures, HC will inform the family of its right to an informal review at the same time that it informs the family of the decision.

18.2.4 Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to HC in person or by first class mail, fax, or email with confirmation of receipt by HC, within 15 calendar days of the date of denial or other action. If the request is not submitted timely, then the applicant will not be entitled to an informal review.

Upon receipt of the written request for a review, the complainant will be notified, in writing, of the date, time and location of the review.

If the family does not appear within 15 minutes of the scheduled time and was unable to reschedule the review in advance due to the nature of the conflict, HC will reschedule the informal review.

If the family does not appear within 15 minutes of the second scheduled time and was unable to reschedule the review in advance due to the nature of the conflict, the family must contact HC within 24 hours of the scheduled informal review date, excluding weekends and holidays. The review will be rescheduled only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, HC's decision will stand.

18.2.5 Informal Review Procedures

[24 CFR 982.554(b)]

The informal review will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to HC's decision.

18.2.6 Remote Informal Reviews

[Notice PIH 2020-32]

HUD allows HC to conduct all or a portion of its informal reviews remotely either over the phone, via video conferences, or through other virtual platforms. If HC chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

HC has the sole discretion to require that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

Additionally, HC will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. HC will consider other reasonable requests for a remote informal review on a case-by-case basis.

As with in-person informal reviews, HC must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

18.2.7 Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities.

HC may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, HC may not hold against the individual his or her inability to participate in the remote informal review, and HC should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

18.2.8 Informal Review Decision

[24 CFR 982.554(b)]

In deciding the informal review, HC will evaluate the following issues:

- Whether or not the grounds for the denial were stated factually in the notice to the family.
- The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations and/or this Administrative Plan, then the decision to deny assistance will be overturned.
- The validity of the evidence; HC will evaluate whether the facts presented prove the grounds for denial of assistance.
    - If the facts prove that there are grounds for denial, and the denial is required by HUD, HC will uphold the decision to deny assistance.

- If the facts prove the grounds for denial, and the denial is discretionary, HC will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

HC will timely notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed timely to the applicant and their representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

18.3 INFORMAL HEARINGS – PARTICIPANTS

[24 CFR 982.555]

HC will offer an informal hearing for certain HC determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the HC's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether HC's decisions related to the family's circumstances are in accordance with the law, HUD regulations and HC policies.

HC is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed.

18.3.1 Decisions Subject to Informal Hearing

Circumstances for which HC must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HC utility allowance schedule.
- A determination of the family unit size (voucher size) under HC's subsidy standards.
- A determination to terminate assistance for a participant family because of the family's actions or failure to act.
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under HC policy and HUD rules.
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account.
- A determination to terminate assistance based on an unfavorable history that may be the result of domestic violence, dating violence, sexual assault, or stalking (see Prohibition against

Termination of Assistance Related to Domestic Violence, Dating Violence, Sexual Assault, Stalking and Human Trafficking).

- A determination to deny a reasonable accommodation request.
- A determination to deny a hardship waiver from the minimum rent requirement.

18.3.2 Decisions Not Subject to Informal Hearing

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by HC;
- General policy issues or class grievances;
- Establishment of the HC schedule of utility allowances for families in the program;
- A HC determination not to approve an extension or suspension of a voucher term;
- A HC determination not to approve a unit or tenancy;
- A HC determination that a unit selected by the family is not in compliance with NSPIRE;
- A HC determination that the unit is not in accordance with NSPIRE because of family size;
- A determination by HC to exercise or not to exercise any right or remedy against an owner under a HAP contract.

18.3.3 Notice to the Family

[24 CFR 982.555(c)]

When HC makes a decision that is subject to informal hearing procedures, HC will inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size (voucher size), HC will notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to HC's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

18.3.4 Scheduling an Informal Hearing

[24 CFR 982.555(d)]

A request for an informal hearing must be made in writing and delivered to HC either in person, by fax, email, or by first class mail, by the close of the business day, no later than 14 calendar days from the date of HC's decision or notice to terminate assistance.

HC will schedule and send timely written notice of the informal hearing to the family. A copy of the procedures governing the hearing will be included with the written notification.

If the participant does not request a hearing in accordance with HC's procedures, HC's determination will become final.

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, HC may request documentation of the good cause prior to rescheduling the hearing.

If the family does not appear within 15 minutes of the scheduled time, HC will reschedule the hearing.

If the family does not appear within 15 minutes of the second scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact HC within 24 hours of the scheduled hearing date, excluding weekends and holidays. HC will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, HC's decision will stand.

18.3.5 Remote Informal Hearings

[Notice PIH 2020-32]

HUD allows HC to conduct all or a portion of its informal hearings remotely either over the phone, via video conferences, or through other virtual platforms. If HC chooses to conduct remote informal hearings, participants may still request an in-person informal hearing, as applicable.

HC has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

Additionally, HC will conduct an informal hearing remotely upon request of the participant as a reasonable accommodation for a person with a disability, if a participant does not have child care or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person informal hearing would create an undue health risk. HC will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

As with in-person informal hearings, HC will provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family will also be provided with an accessible means by which to transmit their own evidence.

18.3.6 Pre-Hearing Right to Discovery

[24 CFR 982.555(e)]

Participants and HC are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any HC documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If HC does not make the document available for examination on request of the family, HC may not rely on the document at the hearing. The family must request discovery of HC documents no later than three business days prior to the scheduled hearing date.

HC will be given the opportunity to examine at HC offices before the hearing, any family documents that are directly relevant to the hearing. HC will be allowed to copy any such document at HC expense. If the family does not make the document available for examination on request of HC, the family may not rely on the document at the hearing. The documentation must be provided to the HCV offices no later than three business days prior to the scheduled hearing date. The participant must provide the department with the names, addresses and relationship of any person that will be attending the hearing on their behalf; prior to the hearing, or they will not be allowed to attend the informal hearing. The names, address and relationship of attendees must also be provided to the HCV offices no later than three business days prior to the hearing.

If the informal hearing is to be conducted remotely, HC will require the family to provide any documents directly relevant to the informal hearing at least three business days before the scheduled hearing through the mail, via email, or text. HC will scan and email copies of these documents to the hearing officer and the HC representative timely.

Documents will be shared electronically whenever possible.

For the purpose of informal hearings, *documents* include records and regulations.

18.3.7 Participant's Right to Bring Counsel

[24 CFR 982.555(e)(3)]

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

18.3.8 Informal Hearing Officer

[24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by HC, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

18.3.9 Attendance at the Informal Hearing

Hearings may be attended by a hearing officer and the following applicable persons:

- A HC representative and any witnesses for HC;
- The participant and any witnesses for the participant;
- The participant's counsel or other representative; and
- Any other person approved by HC as a reasonable accommodation for a person with a disability or as an interpreter for a person with limited English proficiency (see HC's Language Access Plan).

18.3.10 Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with HC's hearing procedures.

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating

disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Participation of attendees will be restricted to providing statements of facts only.

Either party may make a record of the proceedings at that party's own expense. The participant or HC will make any record available to the other party for that party's purchase. Neither party is required to create or provide a written transcript of the hearing record.

18.3.11 Evidence

[24 CFR 982.555(e)(5)]

HC and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. HC defines five categories of evidence:

- **Oral Evidence**: The testimony of witnesses;
- **Documentary Evidence**: A writing which is relevant to the case, for example, a letter written to HC. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof;
- **Demonstrative Evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart, or other diagram;
- **Real Evidence**: A tangible item relating directly to the case;
- **Hearsay Evidence**: Evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If either HC or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

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 HC will take effect and another hearing will not be granted.

18.3.12 Hearing Officer's Decision

[24 CFR 982.555(e)(6)]

The person who conducts the hearing will issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

In rendering a decision, the hearing officer will consider the following:

- **HC Notice to the Family**: The hearing officer will determine if the reasons for HC's decision are factually stated in the notice.
- **Discovery:** The hearing officer will determine if HC and the family were given the opportunity to examine any relevant documents in accordance with HC policy.
- **HC Evidence to Support HC Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support HC's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and HC policies. If the grounds for termination are not specified in the regulations or in compliance with HC policies, then the decision of HC will be overturned.

The hearing officer will issue a timely written decision to the family and HC after the hearing. The report will contain information on the hearing, summary of evidence, findings of fact, conclusions and whether or not HC's decision will be upheld or overturned.

18.3.13 Issuance of Decision

[24 CFR 982.555(e)(6)]

A copy of the hearing decision will be furnished promptly to the family. The hearing officer will mail a "Notice of Hearing Decision" to HC and to the participant. This notice will be sent by first-class mail. The participant will be mailed the original "Notice of Hearing Decision" and a copy of the proof of mailing. A copy of the "Notice of Hearing Decision" will be maintained in HC's file.

18.3.14 Effect of Decision

[24 CFR 982.555(f)]

HC is not bound by the hearing officer's decision for matters in which HC is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state or local laws.

If HC determines it is not bound by the hearing officer's decision in accordance with HUD regulations, HC will promptly notify the family of the determination and the reason for the determination. In such a case, HC will mail a *Notice of Final Decision* to the participant and their representative, if requested. This Notice will be sent by first-class mail. The participant will be mailed the original *Notice of Final Decision*. A copy of the *Notice of Final Decision* along with the original proof of mailing will be maintained in HC's file.

18.4 HEARINGS AND APPEALS FOR NON-CITIZENS

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HC hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the HC informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

18.4.1 Notice of Denial or Termination of Assistance

[24 CFR 5.514(d)]

The notice of denial or termination of assistance for non-citizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;
- The family may be eligible for proration of assistance;
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families;
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal;
- That the family has a right to request an informal hearing with HC either upon completion of the USCIS appeal or in lieu of the USCIS appeal;
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

18.4.2 USCIS Appeal Process

[24 CFR 5.514(e)]

When HC receives notification that the USCIS secondary verification failed to confirm eligible immigration status, HC will notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide HC with a copy of the written request for appeal and the proof of mailing.

HC will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide HC with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to HC, of its decision. When the USCIS notifies HC of the decision, HC will notify the family of its right to request an informal hearing.

HC will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

18.4.3 Informal Hearing Procedures for Applicants Based on Citizenship

[24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that HC provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HC notice of denial or termination, or within 30 days of receipt of the USCIS appeal decision.

18.4.4 Informal Hearing Officer

HC will provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

18.4.5 Evidence – Citizenship Appeals

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of HC pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing. The family must request discovery of HC documents no later than 12:00 p.m. on the business day prior to the hearing.

The family will be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family will also be provided the opportunity to refute evidence relied upon by HC, and to confront and cross-examine all witnesses on whose testimony or information the HC relies.

18.4.6 Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. Upon request, HC will provide competent interpretation services, free of charge.

18.4.7 Recording and Transcript

The family is entitled to have the hearing recorded. HC may, but is not required to provide a transcript of the hearing.

18.4.8 Hearing Decision

HC will provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The final decision notice must state the basis for the decision.

A decision against a family member does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

18.4.9 Informal Hearing Procedures for Participants Based on Citizenship

[24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that HC provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HC notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Informal Hearings – Participants.

A decision against a family member does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

18.4.10 Retention of Documents

[24 CFR 5.514(h)]

HC will retain for a minimum of five years the following documents that may have been submitted to HC by the family, or provided to HC as part of the USCIS appeal or the HC informal hearing process:

- The application for assistance.
- The form completed by the family for income reexamination.
- Photocopies of any original documents, including original USCIS documents;
- The signed verification consent form;
- The USCIS verification results;
- The request for an USCIS appeal;
- The final USCIS determination;
- The request for an informal hearing;
- The final informal hearing decision.

CHAPTER 19: TERMINATION OF ASSISTANCE AND TENANCY

19.1 OVERVIEW

This chapter includes the policies on termination of assistance. It includes the reasons for which HC can terminate assistance, and the ways in which such terminations must take place.

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 (HAP) under an outstanding HAP contract.
- Refusing to process or provide assistance under portability procedures.

19.2 TERMINATION OF ASSISTANCE

19.2.1 Family Chooses to Terminate Assistance

The family may voluntarily choose to terminate their participation at any time. The request must be in writing with the effective date and signed by the head of household and spouse or co-head, if applicable.

19.2.2 Mandatory Termination of Assistance

HC will terminate assistance in the circumstances outlined below.

- **Zero HAP**

  If the amount of assistance provided by HC is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment. If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify HC of the change and request an interim reexamination before the expiration of the 180-day period.

- **Eviction** [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]

  HC will terminate participation whenever a family is evicted from a unit assisted under the HCV program for a serious violation of the lease.

  - *Serious lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.
  - Incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not construed as serious violations of the lease by the victim or threatened victim.
  - *Evicted* shall mean that a household has been removed from a rental unit by the sheriff through enforcement of a Writ of Execution of a Judgment of Restitution that was obtained after a trial or after the household has failed to comply with an order by stipulation but not by default of the household.

- If an owner evicts a household in a PBV assisted unit, the family's assistance automatically terminates as a result of eviction from the assisted unit.
- If a family with a tenant-based voucher is evicted for a serious lease violation, HC will terminate assistance.
- In making its decision, HC will consider the factors described in Criteria for Deciding to Terminate Assistance. Upon consideration of such factors, HC may, on a case-by-case basis, choose not to terminate assistance.

- **Failure to Provide Consent** [24 CFR 982.552(b)(3)]

  HC will terminate assistance if any family member fails to sign and submit any consent form that they are required to sign for a reexamination. See the section on Family Consent to Release of Information for a complete discussion of consent requirements.

- **Failure to Document Citizenship** [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

  HC will terminate assistance if:

  - A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
  - A family submits evidence of citizenship and eligible immigration status in a timely manner, but the United States Citizenship and Immigration Services' (USCIS) primary and secondary verification do not verify eligible immigration status of the family; or
  - A family member, as determined by HC, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. Such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

- **Failure to Disclose and Document Social Security Numbers** [24 CFR 5.218(c), Notice PIH 2018-24]

  HC will terminate assistance if any household member fails to disclose the complete and accurate Social Security numbers of each household member and the documentation necessary to verify each Social Security number.

  HC will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

  See Social Security Numbers for additional information on providing SSNs.

- **Methamphetamine Manufacture or Production** [24 CFR 982.553(b)(1)(ii)]

  HC will terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

- **Lifetime Registered Sex Offenders** [Notice PIH 2012-28]

Should HC discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, HC will immediately terminate assistance for the household member.

In this situation, HC will offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, HC will terminate assistance for the household.

For admissions before June 25, 2001, there is currently no HUD statutory or regulatory basis to evict or terminate the assistance of the family solely on the basis of a household member's sex offender registration status.

- **Failure of Students to Meet Ongoing Eligibility Requirements** [24 CFR 982.552(b)(5) and FR 4/10/06]

  If a student enrolled at an institution of higher education (see Students Enrolled in Institutions of Higher Education) is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with their parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, HC will terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

  If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and HC policies or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

- **Death of the Sole Family Member** [24 CFR 982.311(d) and Notice PIH 2026-11]

  HC will immediately terminate program assistance for deceased sole family member. This includes sole family member households that have a live-in aide, as live-in aides are not considered family members, and have no rights as remaining family members.

19.2.3 Additional Reasons for Termination of Assistance

[24 CFR 982.552(c), 24 CFR 5.2005(c), 24 CFR 984.101(d)]

HC will terminate participation under the following circumstances but will consider mitigating circumstances before determining whether to do so.

- **Use of Illegal Drugs and Alcohol Abuse**

  HC will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

  HC will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

  - *Currently engaged in* is defined as any use of illegal drugs during the previous six months.

- HC will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.
- In making its decision to terminate assistance, HC will consider alternatives as described in Criteria for Deciding to Terminate Assistance. Upon consideration of such alternatives and factors, HC may, on a case-by-case basis, choose not to terminate assistance.

- **Drug-Related and Violent Criminal Activity** [24 CFR 5.100]

  HC will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

  - *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
  - *Drug-related criminal activity* is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.
  - *Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.
  - HC will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.
  - In making its decision to terminate assistance, HC will consider alternatives as described in Criteria for Deciding to Terminate Assistance. Upon consideration of such alternatives and factors, HC may, on a case-by-case basis, choose not to terminate assistance.

- **Failure to Comply with Family Obligations**

  HC's family obligations include household members, guests, and other persons under the tenant's control, and thus HC may terminate assistance to families in which a household member, guest, or a person under the tenant's control has violated the family's program obligations. Failure to comply with obligations include but are not limited to:

  - Failure to provide HC with accurate and complete information;
  - Failure to cooperate with any HC process;
  - Failure to attend scheduled appointments;
  - Failure to maintain utilities that the participant is responsible for;
  - Allowing additional unauthorized individuals to reside in an assisted unit;
  - Intentionally misrepresenting or having had intentionally misrepresented information related to eligibility, preference for admission, housing history, allowances, household composition, or rent;

- Failure to cooperate with or allow an NSPIRE inspection;
- Failure to keep the unit in a clean and safe condition, and/or failure to dispose of all garbage, rubbish and other waste in a sanitary and safe manner. HC considers a unit unclean and/or unsafe if it contains fire or other hazards or clutter in the dwelling unit or on the premises. Hazards include flammables, gas, naphtha or solvents, or inoperable appliances or heating, cooling, plumbing or electrical equipment, and others.

- **Fraud, Bribery, or Any Other Corrupt or Criminal Act**

  HC will terminate a family's participation if any household member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal program.

- **Failure to Repay Monies Owed**

  HC will terminate a household's participation for breaching the terms of a repayment agreement with HC. HC will also terminate a family's participation for the following reasons:

  - Any adult member of a household currently owes money to HC, any other housing authority, or owner of state or federally assisted housing and has not paid the debt in full or is not current on any repayment agreement.
  - The family has not reimbursed any housing authority for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other enforceable amounts owed by the family under the lease.

- **Eviction**

  HC will terminate a family's participation if any family member has been evicted from federally assisted housing in the last three years.

- **Serious or Repeated Violation(s) of the Lease**

  HC may terminate a family's participation if any family member has committed serious or repeated violations of the lease.

  - *Serious or repeated lease violations* may include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises, and criminal activity.
  - Incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not construed as serious violations of the lease by the victim or threatened victim.

- **Abusive or Violent Behavior towards HC Personnel**

  HC will terminate a family's participation if a family member has engaged in or threatened violent or abusive behavior toward HC personnel.

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

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

- **Family Absence from the Unit** [24 CFR 982.312]

  If the family is absent from the unit for more than 180 consecutive calendar days in a 12-month period, HC will terminate assistance for the family. See Absence from the Unit.

- **Vacating the Unit to Avoid Eviction Action During the Initial Lease Term**

  HC may terminate a family's participation if they vacate the assisted unit while under an eviction action but before the eviction has been executed by the sheriff through enforcement of a Writ of Execution of a Judgment of Restitution. HC will not offer the family the opportunity to be re-issued a voucher to move.

- **Insufficient Funding** [24 CFR 982.454; PIH Notice 2026-12, Revision 2]

  HC may terminate HAP contracts if HC determines, in accordance with HUD requirements, that funding under the Annual Contributions Contract is insufficient to support continued assistance for families in the program. In such a case, HC will determine if any other actions can be taken to reduce program costs.

  In the event that HC decides to stop issuing vouchers as a result of a funding shortfall, and HC is not assisting the required number of special purpose vouchers (i.e., Mainstream) when HC resumes issuing vouchers, HC will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

  If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, HC will terminate HAP contracts as a last resort.

  Prior to terminating any HAP contracts, HC will inform the local HUD field office. HC will terminate the minimum number needed in order to reduce HAP costs to a level within HC's annual budget authority.

  If HC will terminate HAP contracts due to insufficient funding, HC will do so in accordance with the following criteria:

  - Families comprising the required number of special purpose vouchers (i.e., Mainstream) will be the last to be terminated.
  - HC will review HAP contracts to determine families that are paying more than 80 percent of the rent to owner. HC will rank those families from highest family rent to owner to lowest family rent to owner. HC will begin to terminate the families with the highest family rent to owner and continue down the list until HC has reached an adequate number of terminations to reduce HAP costs to the level of HC's annual budget authority.

19.2.4 Termination Due to Lack of Funding Availability

During periods when funding availability is limited (projected expenses exceed anticipated funding) or voucher shortage (vouchers issued exceed the established voucher availability by the Annual

Contributions Contract), after HUD notification, HC reserves the right to rescind vouchers issued first and terminate subsidies if necessary. In such situations, HC will decide which households will have their vouchers rescinded or subsidy terminated based on factors including but not limited to:

- Risk of immediate homelessness;
- Household income as it relates to the Area Median Income;
- Value of assets for all household members;
- Level of HAP expense; and/or
- Availability of alternate housing subsidy.

Similar guidelines will apply to Tenant Protection Voucher holders after the one-year anniversary of the enhanced development conversion. Participants in special purpose voucher programs (such as HUD VASH) will be the last group to be terminated. Should the need arise to terminate subsidy for SPV populations; the guidelines above will be applied.

Households who were terminated due to lack of funding availability will have the opportunity for re-instatement if funding becomes available. These households will have the first opportunity for re-instatement and re-issuance of a voucher if they remain eligible. Those who have secured alternate housing subsidy may not be re-instated in the program.

19.3 CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

19.3.1 Evidence - Terminations

HC will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

19.3.2 Use of Criminal Conviction Records after Admission

[24 CFR 5.903]

The regulation at 24 CFR 5.903 governs HC's access to and use of criminal conviction records obtained from a *law enforcement agency* such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records.

While HC has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, HC may not use records for this purpose.

However, there is no prohibition that bars HC from using non-federal sources to conduct criminal background checks of program participants.

19.3.3 Consideration of Circumstances - Terminations

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

HC will consider the following facts and circumstances when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault, stalking or human trafficking.
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent rent history, and the likelihood of favorable conduct in the future.
- When there is a record of arrest, HC may obtain a copy of the police report associated with the arrest and consider the circumstances of the arrest, including:
    - Any statements made by witnesses or the participant not included in the police report.
    - Whether criminal charges were filed.
    - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal.
    - Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

Additionally, the following will be considered:

- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. HC will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug and alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of overpaid assistance and whether or not a false certification was signed by the family.

19.3.4 Reasonable Accommodation

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

If the family includes a person with disabilities, HC's decision to terminate the family's assistance is subject to consideration of reasonable accommodation.

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, HC will determine whether the behavior is related to the disability. If so, upon

the family's request, HC may approve alternative measures that are appropriate as a reasonable accommodation. HC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

19.3.5 Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking

For policies concerning terminations related to domestic violence, dating violence, sexual assault, stalking, or human trafficking, see Violence Against Women Act Protections.

19.3.6 Alternatives to Termination of Assistance

Change in Household Composition

As a condition of continued assistance, HC may require that any household member who participated in or was responsible for an offense no longer reside in the unit.

If such a condition is required, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address on HC request.

Repayment of Family Debts

If a family owes amounts to HC, as a condition of continued assistance, HC will require the household to repay the full amount and may enter into a repayment agreement, within 30 days of receiving notice from HC of the amount owed. See the section on Repayment Agreements for HC's repayment agreement policies.

19.4 TERMINATION NOTICE

If a family's assistance is to be terminated, HC must give the family written notice that specifies:

- The reasons for which assistance has been terminated;
- The effective date of the termination;
- The family's right to an informal hearing as described in Informal Hearings – Participants;
- Notification of rights under VAWA;
    - HC will also provide with the termination notice the form HUD-5382 and form HUD-5380;
    - HC will request in writing that a family member wishing to claim protection under VAWA provide documentation support the claim in accordance with the policies in this Plan (see Violence Against Women Act Protections.
- If a criminal record is the basis of a family's termination, HC will provide a copy of the record to the head of household and the subject of the record so that they have an opportunity to dispute the accuracy and relevance of the record.
- If immigration status is the basis of a family's termination, see requirements listed under Notice of Denial or Termination of Assistance.

When HC notifies an owner that a family's assistance will be terminated, HC will, if appropriate, advise the owner of their right to offer the family a separate, unassisted lease.

19.5 TERMINATION OF TENANCY BY THE OWNER

[24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

Termination of an assisted tenancy is a matter between the owner and the family; HC is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this chapter.

19.5.1 Grounds for Termination of Tenancy by the Owner

During the term of the lease, the owner is not permitted to terminate the tenancy except for:

- Serious violations 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 unit and premises;
- Criminal activity or alcohol abuse; or
- Other good cause.

Serious Violations of the Lease

The owner is permitted to terminate the family's tenancy for serious violations of the terms and conditions of the lease, except when the incidents are covered under VAWA. This includes failure to pay rent or other amounts due under the lease. However, HC's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest, or another person under the tenant's control commits any of the following types of criminal activity:

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by other residents, including property management staff residing on the premises;
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premise;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for *other good cause* unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, *other good cause* may include:

- The disturbance of neighbors,
- Destruction of property, or
- Living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, *other good cause* for termination of tenancy by the owner may include:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate.

19.5.2 Eviction

[24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give HC a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give HC a copy of any eviction notice.

If the eviction action is finalized in court, the owner must provide HC with the related documentation no later than five business days following the court-ordered eviction.

19.5.3 Deciding Whether to Terminate Tenancy

[24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action.
- The seriousness of the offending action.
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy.
- The extent of participation by the leaseholder in the offending action.
- The effect of termination of tenancy on household members not involved in the offending activity.
- The demand for assisted housing by families who will adhere to lease responsibilities.
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action.
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions, including VAWA.

19.5.4 Effect of Termination of Tenancy on the Family's Assistance

If an owner termination is not due to a serious violation of the lease, and if HC has no other grounds for termination of assistance, HC may issue a new voucher so that the family can move with continued assistance.

CHAPTER 20: PROGRAM INTEGRITY

20.1 INTRODUCTION

HC is committed to ensuring that subsidy funds made available to HC are spent in accordance with HUD requirements. Further, HC will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This chapter covers HUD and HC policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

20.2 PREVENTING ERRORS AND PROGRAM ABUSE

To ensure that HC's HCV program is administered effectively and according to the highest ethical and legal standards, HC will employ a variety of techniques to ensure that both errors and intentional program abuse are rare. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by tenants.

HC will work to increase tenant awareness of the importance of program integrity using a variety of methods, including but not limited to, briefing sessions, distribution of informational brochures, use of instructive signs and warnings, and employee training.

For purposes of this chapter, the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

20.3 DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, HC will use a variety of activities to detect errors and program abuse.

20.3.1 Quality Control and Analysis of Data

HC will employ a variety of methods to detect errors and program abuse.

- HC routinely will use available sources of upfront income verification to compare with family-provided information.
- At each regular reexamination, current information provided by the family will be compared to information provided at the last regular reexamination to identify inconsistencies and incomplete information.
- HC will compare family-reported income and expenditures to detect possible unreported income.

20.3.2 Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of HC activities and notifies HC of errors and potential cases of program abuse.

HC will use the results reported in any internal, independent, or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of HC's error detection and abuse prevention efforts.

20.3.3 EIV Reports

HC will review EIV reports as required by HUD and ensure any corrections are made within 60 calendar days from identification of the discrepancy.

In the case of any discrepancies between what is reported by the household and what the EIV shows, HC will follow the protocol as outlined in this chapter.

20.4 INVESTIGATION

HC will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for HC to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

HC will investigate when inconsistent information related to the family is identified through file reviews and the verification process.

Investigated complaints may include, but are not limited to, the following:

- Unreported income;
- Fraud;
- Failure to report a change in household composition;
- Unauthorized occupancy;
- Subletting;
- Participant vacating without notice;
- Owner overcharging participants;
- Housing Quality Standards violations;
- Illegal drug activity;
- Violent criminal activity;
- Activities that threaten the right to peaceful enjoyment of the premises by other residents; and
- Nuisance.

HC cooperates with local police and other appropriate agencies when complaints are received from individuals regarding units that are not owned or operated by HC, but are owned by landlords participating in one of HC's assisted housing programs. This cooperation includes sharing pertinent information and acting as liaison between the local police or other agencies and the owner.

20.4.1 Consent to Release of Information

[24 CFR 982.516]

HC may investigate possible instances of error or abuse using all available HC and public records. If necessary, HC will require HCV families to sign consent forms for the release of additional information.

20.4.2 Analysis and Findings

HC will base its evaluation on a preponderance of the evidence collected during its investigation. See policies on Evidence - Terminations for a definition of *preponderance of evidence*.

For each investigation HC will determine:

- Whether an error or program abuse has occurred;
- Whether any amount of money is owed to HC; and
- Which corrective measures or penalties will be assessed.

20.4.3 Consideration of Remedies

All errors and instances of program abuse will be corrected. Whether HC will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, HC may take into consideration:

- The seriousness of the offense and the extent of participation or culpability of individual family members;
- Any special circumstances surrounding the case;
- Any mitigating circumstances related to the disability of a family member;
- The effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, HC may take into consideration:

- The seriousness of the offense,
- The length of time since the violation has occurred; and
- The effects of a particular remedy on family members who were not involved in the offense.

20.4.4 Notice and Appeals

HC will timely inform the relevant party in writing of its findings and remedies. The notice will include:

- A description of the error or program abuse;
- The basis on which HC determined the error or program abuses;
- The remedies to be employed; and
- The family's right to appeal the results through the informal review or hearing process, if applicable (see INFORMAL REVIEWS AND HEARINGS).

20.5 HC-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HC staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a HC staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in HC personnel policy.

HC-caused incorrect subsidy determinations include, but are not limited to:

- Failing to correctly apply program rules regarding household composition, income, assets, and/or deductions;
- Assigning the incorrect voucher size to a family;
- Errors in calculation (including but not limited to: incorrect housing assistance payments, family share of rent, etc.).

20.5.1 De Minimis Errors

[24 CFR 5.609(c)(4)]

HC will not be considered out of compliance when making annual income determinations solely due to *de minimis errors* in calculating family income.

A *de minimis error* is an error where the HC determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

HC will take corrective action to credit or repay a family if the family was overcharged rent, including when HC makes de minimis errors in the income determination. Families will not be required to repay HC in instances where HC miscalculated income resulting in a family being undercharged for rent.

20.5.2 Prohibited HC Staff Actions

Any of the following will be considered evidence of program abuse by HC staff:

- Failing to comply with any HCV program requirements for personal gain;
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner;
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to HC;
- Disclosing confidential or proprietary information to outside parties;
- Gaining profit as a result of insider knowledge of HC activities, policies, or practices;
- Misappropriating or misusing HCV funds;
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program;
- Committing any other corrupt or criminal act in connection with any federal housing program.

20.5.3 Corrections

HC will seek to ensure that the correct level of assistance is given to each subsidized household in accordance with this Plan. In cases where HC determines that there has been an incorrect subsidy determination—whether it is an overpayment or underpayment of subsidy—HC will promptly correct housing assistance payment (HAP), family share, and any utility reimbursement (if applicable) prospectively.

In cases where there has been an overpayment of subsidy due to HC error:

- Participants will not be required to repay the amount;
- Owners will not be required to repay the amount except in the cases where the error results in the combination of the family share of rent and the HAP exceeding the reasonable rent stated in the HAP contract.

In cases where there has been an underpayment of subsidy due to HC error, HC will determine the amount of rent the household should have paid, and refund to the household the difference between that amount and what they actually paid. If the household is due a refund of rent due to HC error but owes HC or the landlord rent, HC may choose to retain the amount owed (if due to HC), or pay the amount due or a portion thereof directly to the owner on behalf of the family rather than to the family directly.

HC will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

20.6 FAMILY-CAUSED ERRORS AND/OR PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this Plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows HC to use incorrect information provided by a third party.

HC will not reimburse the family for any overpayment of family share of rent when the family causes the overpayment.

20.6.1 Prohibited Family Actions

An applicant or participant family must not knowingly engage in any HCV program abuse, including but not limited to making a false statement to HC and/or committing fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program. Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by HC for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to the HC Board of Commissioners, employees, contractors, or other HC representatives;
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the HC on the family's behalf;

- Use of a false name or the use of falsified, forged, or altered documents;
- Intentional misreporting of family information or circumstances (e.g., income, family composition);
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income);
- Admission of program abuse by an adult family member;

HC may determine other actions to be program abuse based upon a preponderance of the evidence.

20.6.2 Applicant/Participant Penalties for Program Abuse

In the case of program abuse caused by a family, HC may, at its discretion, impose any of the following remedies.

- Require the family to repay excess subsidy amounts paid by HC;
- Require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit;
- Deny or terminate the family's assistance; or
- Refer the family for state or federal criminal prosecution.

20.6.3 Family Reimbursement to HC

In the case of family-caused errors, program abuse, or resumption of minimum rent after a temporary hardship, the family will be required to repay all amounts due. HC may, but is not required to, offer the family a repayment agreement. If the family fails to repay the amount due or refuses to enter into an offered repayment agreement, HC may terminate the family's assistance.

20.7 OWNER-CAUSED ERRORS AND/OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., NSPIRE compliance, fair housing) are addressed in the appropriate chapters of this Plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (i.e., the number of bedrooms, which utilities are paid by the family). Owner error or abuse also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

20.7.1 Prohibited Owner Actions

An owner participating in the HCV program must not make any false statements to HC and/or commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program including, but not limited to:

- Charging the family rent above or below the amount specified by HC;
- Charging a security deposit other than that specified in the family's lease;

- Charging the family for services that are provided to unassisted tenants at no extra charge;
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;
- Knowingly accepting incorrect or excess housing assistance payments;
- Offering bribes or illegal gratuities to HC's Board of Commissioners, employees, contractors, or other HC representatives;
- Offering payments or other incentives to a subsidized family as an inducement for the family to make false or misleading statements to HC;
- Residing in the unit with an assisted family;
- Committing sexual or other harassment, either quid pro quo or hostile environment based on a protected class as noted in the chapter on FAIR HOUSING AND EQUAL OPPORTUNITY;
- Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment based on a protected class as noted in the chapter on FAIR HOUSING AND EQUAL OPPORTUNITY.

20.7.2 Owner Remedies and Penalties for Program Abuse

When HC determines that the owner has committed program abuse, HC may take any of the following actions:

- Require the owner to repay excess housing assistance payments;
- Terminate the HAP contract;
- Bar the owner from future participation in any HC programs;
- Refer the case to state or federal officials for criminal prosecution.

20.7.3 Owner Reimbursement to HC

In all cases of overpayment of subsidy caused by the owner, the owner must repay to HC any excess subsidy received.

20.8 DEBTS OWED TO HC

Households and owners must pay all debts owed to HC regardless of whether a repayment agreement is offered.

20.8.1 Applicant Debt

When an applicant currently owes HC money from a previous public housing residency, HCV program participation, or participation in any other subsidized housing program, they must fully repay the debt. See Former Tenant Search/Debts Owed and Terminations for policies on applicant repayment of prior debt.

20.8.2 Participant Debt

Participants are required to reimburse HC if they were charged less rent than required by HC's rent formula due to the participant's underreporting or failure to report income. Families will be required to reimburse HC for the difference between what the family share of rent should have been against the family rent that was charged and paid. This amount is referred to as *retroactive rent*. HC will determine retroactive rent as far back as HC has documentation of family reported income.

20.8.3 Owner Debt

In all cases of overpayment of subsidy caused by the owner, the owner must repay to HC any excess subsidy received.

20.9 DETERMINING FRAUD

HC must determine whether any incorrect reporting was intentional or unintentional. Regardless of that determination, participants must repay the full amount owed or enter a repayment agreement (if offered by HC) within 30 days of receiving notice of the debt. In cases where the incorrect reporting was unintentional and the family has not otherwise a committed program violation where termination is required, HC will offer the family a repayment agreement. In all other circumstances involving incorrect reporting by the family, HC may offer a repayment agreement at its sole discretion.

20.9.1 Factors Used to Determine Whether Misreporting is Intentional or Unintentional

When deciding whether the family's reporting was intentional or unintentional, and whether to enter into a repayment agreement with the family, HC will consider the family's history of meeting its family obligations under the housing program, including any history of fraud. HC will consider the facts as noted under Consideration of Remedies; additionally, it will consider:

- The amount owed by the family;
- The reason for the debt;
- The family's current and potential income and expenses; and
- Any other information that is relevant to the case.

20.9.2 Intentional Misreporting

Misreporting will be considered **intentional** and fraudulent when the participant:

- Knowingly provides inaccurate or incomplete information;
- Knowingly allows HC to use incorrect information provided by a third party; and/or
- Fails to report when required any income or household composition changes that would result in an increase in the family share of rent when the act was done repeatedly (i.e., not a one-time or accidental occurrence) or there was prior determination of fraudulent intent or conviction.

HC will substantiate fraud/intentional incorrect reporting through documentation. See HC Actions When Misreporting is Determined.

20.9.3 Unintentional Misreporting

Misreporting will be considered **unintentional** when a participant's failure to report information was not done deliberately or with an intention to deceive. See HC Actions When Misreporting is Determined.

20.9.4 HC Actions When Misreporting is Determined

Regardless of the amount owed, HC will send a notice to the family to contact the agency concerning the debt.

In cases of substantiated fraud/intentional misreporting, HC may terminate the household's assistance and may file a civil and/or criminal action for recovery of overpayment of subsidy. HC may at its sole discretion take any of the actions as described in this Plan.

20.10 REPAYMENT AGREEMENTS

[24 CFR 792.103]

The term *repayment agreement* refers to a formal document signed by a participant or owner and HC in which a participant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

All repayment agreements will be in writing and will be signed and dated by the head of household and HC. Additionally, repayment agreements will include the amount owed, down-payment, monthly repayment payments and related time periods for such payments.

Where renegotiation of the terms of a repayment agreement is concerned, this may be at the family's request or by HC. For example, if a family's income decreases, the family may request renegotiation, and if a family's income increases, HC may initiate renegotiation of the repayment agreement.

The circumstances in which HC will not enter into a payment agreement are, as follows:

- If the family already has a payment agreement in place; or
- If the amount exceeds the federal or state threshold for criminal prosecution.

20.10.1 General Repayment Agreement Guidelines for Families

Down Payment Requirement

Prior to the execution of a repayment agreement, the owner or family must pay 10 percent of the balance owed to HC. If the family can provide evidence satisfactory to HC that a down payment of 10 percent would impose an undue hardship, HC may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

[24 CFR 982.552(c)(1)(vii)]

HC has established the following thresholds for repayment of debts:

- Amounts between $3,000 and the federal or state threshold for criminal prosecution must be repaid within 36 months.
- Amounts between $2,000 and $2,999 must be repaid within 30 months.

- Amounts between $1,000 and $1,999 must be repaid within 24 months.
- Amounts under $1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to HC that the threshold applicable to the family's debt would impose an undue hardship, HC may, in its sole discretion, determine that a lower monthly payment amount is reasonable and/or lengthen the time in which the debt must be paid. In making its determination, HC will consider all relevant information, including the following:

- The amount owed by the family to HC;
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control;
- The family's current and potential income and expenses;
- The family's current family share;
- The family's history of meeting its financial responsibilities.

20.10.2 Late or Missed Payments

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by HC, HC will send the family a delinquency notice giving the family 10 business days to make the late payment.

If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and HC will terminate assistance in accordance with the policies in this Plan.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and HC will terminate assistance in accordance with the policies in TERMINATION OF ASSISTANCE AND TENANCY.

20.10.3 Transfers and Repayment Agreements

If the family requests a move and has a payment agreement in place and the payment agreement is not in arrears, the family will be permitted to move. Exceptions for families who are in arrears will be considered on a case-by-case basis and make take into account situations including but not limited to emergencies, reasonable accommodations and occupancy standards.

20.10.4 Limit on the Number of Repayment Agreements Allowed

HC will not enter into more than one repayment agreement with a family. If there is a second incidence of unreported or underreported income, HC will terminate the family's assistance in accordance with the policies in this Plan. HC may also pursue other modes of collection.

20.10.5 Consequences of Nonpayment/Default

If the family refuses to repay the debt, refuses to enter into an offered repayment agreement, or breaches a repayment agreement (including failure to make payments as required), HC may terminate the family's assistance in accordance with HC's termination policies and/or applicable program regulations. HC may also pursue other modes of collection. HC will not offer any HC-sponsored amnesty or debt forgiveness programs.

If a family that is being terminated for failure to pay a debt, pays the entire debt in full on or before the date of the termination hearing, the family may be reinstated to the program, at HC's discretion.

20.11 CRIMINAL PROSECUTION

When HC determines that program abuse has occurred by a participant, owner, or HC staff and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, HC will refer the matter to the appropriate entity for prosecution.

When the amount of overpaid assistance in federally funded programs meets or exceeds the federal threshold or $25,000, whichever is lower, the case will also be referred to the HUD Office of Inspector General (OIG).

When the program abuse involves a criminal enterprise and/or multiple parties are involved, the case will be referred to the HUD OIG and/or the Utah Office of the State Inspector General.

Other criminal violations related to any subsidized housing program will be referred to the appropriate local, state, or federal entity.

20.12 RECOVERY OF FUNDS

Where HC is the principal party initiating or sustaining an action to recover amounts from families or owners that are due as a result of fraud and abuse, HC may retain a portion of the amount of voucher program funds it recovers.

HC will be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits HC to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in this Plan.

If HUD incurs costs on behalf of HC related to the collection, these costs will be deducted from the amount retained by HC.

If the family has forfeited their FSS escrow account, any remaining funds will be treated in accordance with HUD requirements governing the use of program receipts. See HC's FSS Action Plan for more information on the proper use of forfeited escrow accounts.

The amount(s) retained by HC must go to its administrative fee reserves/UNP; see Notice PIH 2015-17.

20.12.1 Recoveries Not Retained by HC

HC will not retain recoveries:

- In cases of owner fraud in units HC owns or controls (that is, HC may not benefit from owner fraud when it is the owner or otherwise controls the unit(s) in question); and/or
- In cases where incorrect payments were made or benefits received due to HC's calculation errors.

In non-fraud cases where HC cannot require repayment by a family or owner, the amounts (i.e., the difference between what was paid and what should have been paid) must come out of HC's administrative fee reserve, also known as the Unrestricted Net Position (UNP).

20.12.2 Recordkeeping of Recoveries

To permit the audit of the amounts retained, HC must maintain all records HUD/Utah (as applicable) requires, including:

- Recovered amounts;
- Nature of the judgment or repayment agreement; and
- Amount of legal fees and expenses incurred in obtaining the judgment or repayment agreement and recovery.

20.13 SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure HC's performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each public housing authority (PHA) as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect HC in funding and specific HUD requirements.

Pursuant to the Moving to Work Operations Notice, MTW agencies will not be scored in SEMAP unless and until such time as HUD develops an MTW-specific system that is consistent with SEMAP, or successor system, but they can elect to be scored if they choose to opt in. An MTW agency will maintain its SEMAP performance designation (i.e., high performer, standard performer, troubled) at the time of MTW designation, up until a successor system is established. If an MTW agency elects to receive its overall SEMAP score, the agency must continue to be scored for the duration of the demonstration, or until the agency is assessed under the MTW-specific assessment system, whichever comes first. Once developed, all MTW agencies, including MTW agencies that opt out of SEMAP, must be assessed under the MTW-specific assessment system(s).

CHAPTER 21: OWNERS

21.1 OVERVIEW

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating households. The term *owner* refers to any person or entity with the legal right to lease a unit to a household in the HCV program. Owners have numerous responsibilities under the program, including screening and leasing to households, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

21.2 OWNER RECRUITMENT AND RETENTION

[HCV GB, pp. 2-4 to 2-6; HCV Landlord Strategy Guidebook for PHAs]

21.2.1 Recruitment

HC will conduct owner outreach to ensure that owners are familiar with the program and its advantages. HC will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies may include:

- Distributing printed material about the program to property owners and managers;
- Maintaining a web page with information about the program pertinent to property owners and managers;
- Holding owner workshop/information meetings at least once a year; and
- Developing working relationships with owners.

HC will monitor owner participation and outreach activities regularly in coordination with community organizations. All outreach strategies will be monitored for effectiveness and adapted accordingly.

21.2.2 Retention

In addition to recruiting owners to participate in the HCV program, HC will also provide the kind of customer service that will encourage participating owners to remain active in the program.

All HC activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

HC will provide owners with a handbook that explains the program, including HUD and HC policies and procedures, in easy-to-understand language.

HC will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated HC contact person;
- Coordinating inspection and leasing activities between HC, the owner, and the family; and
- Providing answers to Frequently Asked Questions (FAQs) on HC's website.

21.3 OWNER RESPONSIBILITIES

[24 CFR 982.452]

The basic owner responsibilities according to HUD regulations are as follows:

- Perform all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease.
- Perform all management and rental functions for the assisted unit, including selecting a voucher holder to lease the unit, and deciding if the household is suitable for tenancy of the unit.
- Maintain the unit in accordance with the NSPIRE standards, including performance of ordinary and extraordinary maintenance.
- Comply with equal opportunity requirements.
- Prepare and furnish to HC information required under the HAP contract.
- Collect from the household any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from HC), and any charges for unit damage by the household.
- Enforce tenant obligations under the lease.
- Pay for utilities and services that are not the responsibility of the family as specified in the lease.
- Allow modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203].
- Comply with the Violence Against Women Act (VAWA) when screening or terminating tenants (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); 24 CFR 982.452(b)(1); and FR Notice 1/4/23]).

21.4 OWNER QUALIFICATIONS

HC will not approve the assisted tenancy for any of the following reasons:

- HC has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24 ([24 CFR 982.306(a) and (b)]).
- The owner parent, child, grandparent, grandchild, sister, or brother of any member of the family; HC may make an exception as a reasonable accommodation for a family member with a disability ([24 CFR 982.306(d), HCV GB p. 11-2]).
- Any of the following have an interest in the tenancy [24 CFR 982.161; HCV GB p. 8-19; Form HUD-52641, Section 13]):
    - Any present or former member or officer of HC (except a participant commissioner);
    - Any employee of HC, or any contractor, subcontractor or agent of HC, who formulates policy or who influences decisions with respect to the programs;
    - Any public official, member of a governing body, or state or local legislator, who exercises functions or responsibilities with respect to the programs;
    - Any member of the Congress of the United States.

HUD may waive the conflict-of-interest requirements, except for members of Congress, for good cause. HC must submit a waiver request to the appropriate HUD Field Office for determination [HCV Guidebook pp.11-2 and 11-3].

21.5 OWNER DISAPPROVAL

[24 CFR 982.306(c)]

HC may deny approval to lease a unit from an owner for any of the following reasons:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the inspections standards for units leased under the tenant-based programs, or with applicable housing standards for units leased with project- based Section 8 assistance or leased under any other federal housing programs;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity 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 and safety of other residents, of employees of HC, 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 residency by persons residing in the immediate vicinity of the premises; or
    - Engages in drug-related criminal activity or violent criminal activity.
- The owner has committed abusive or violent behavior towards HC personnel, including verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior. Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence;
- The owner has not paid state or local real estate taxes, fines, or assessments;
- The owner has a history or practice of renting units that fail to meet state or local housing codes;
- The owner's property is in a foreclosure status; or
- Any other reasons determined reasonable by HC and prohibited by law.

21.6 LEGAL OWNERSHIP OF UNIT

The following represents HC policy on legal ownership of a dwelling unit to be assisted under the HCV program.

HC will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, warranty deed, etc.).

21.7 NON-DISCRIMINATION

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with HC.

The owner must cooperate with HC and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with HC.

21.8 CHANGE IN OWNERSHIP

An owner under a HAP contract must notify HC in writing at least 30 days in advance of the change in the legal ownership of the unit. The owner must supply all information as requested by HC. The request must include the name and address of the new HAP payee and the effective date of the change. HC will notify the existing and new owner, in writing, of the outcome of the change in ownership request.

If HC is not notified of the sale 30 days in advance, and as a result, HAP payments have been issued to the seller after the date of the sale, HC will not issue payments for this time period to the purchaser. The purchaser will be directed to contact the seller for those funds.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program.

The new owner must provide a written certification to the HC that includes:

- Proof of ownership, (i.e., a copy of the escrow statement or other document showing the transfer of title and recorded deed);
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, and/or the Employer Identification Number or Social Security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract;
- A certification that the new owner is not a prohibited relative; and
- Any other completed, signed, and dated required HC forms.

If the change in ownership request that is submitted is determined to be incomplete, HC will request additional information and provide a 30-day deadline for a response. If the owner fails to respond by the provided deadline, upon completion of the required documents, HC may make the rental subsidy payments prospective from the date that all required documentation is supplied to HC.

The new owner must agree to be bound by and comply with the HAP contract. If the new owner does not agree to an assignment of the HAP contract, or fails to provide required documents, HC will terminate the HAP contract and issue the family a voucher to move. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, HC will process the leasing in accordance with the policies in this Plan.

21.9 FORECLOSURE

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

21.10 OWNER TERMINATION OF TENANCY

During the lease term, an owner shall not terminate the tenancy of an assisted household except for specific reasons. See Termination of Tenancy by the Owner for specific policies on owner termination of tenancy.

CHAPTER 22: SPECIAL HOUSING TYPES

22.1 OVERVIEW

HC will permit a family to use any of the special housing types discussed in this chapter. HC also may limit the number of families who receive HCV assistance in these housing types. No special funding is provided for special housing types. In the event, as a reasonable accommodation, a family is permitted to use HUD approved special housing types, HC will follow the applicable regulatory requirements in 24 CFR 982 Subpart M: Special Housing Types.

Special housing types include:

- Single room occupancy (SRO) housing
- Congregate housing
- Group homes
- Shared housing
- Cooperative housing
- Manufactured homes
- Homeownership – HC does not currently operate an HCV homeownership program

22.2 SINGLE ROOM OCCUPANCY

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is in use.

See 24 CFR 982.602 - 982.605.

22.2.1 Payment Standard, Utility Allowance, and HAP Calculation

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on HC's payment standard schedule. The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance. The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

22.2.2 Inspections Standards

The requirements described in the chapter on INSPECTIONS apply to SRO except as modified by 24 CFR 982.605.

Because no children live in SRO housing, the inspections standards applicable to lead-based paint do not apply.

22.3 CONGREGATE HOUSING

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by HC, a family member or live-in aide may reside with the elderly person or person with disabilities. HC will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

See 24 CFR 982.606 - 982.609.

22.3.1 Payment Standard, Utility Allowance, and HAP Calculation

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), HC must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), HC must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

22.3.2 Inspections Standards

The requirements described in the chapter INSPECTIONS on apply to congregate housing except as modified by 24 CFR 982.609.

22.4 GROUP HOME

A group home is a state-approved (licensed, certified, or otherwise approved in writing by the state) facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by HC, a live-in aide may live in the group home with a person with disabilities. HC will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

See 24 CFR 982.610 - 982.614.

22.4.1 Payment Standard, Utility Allowance, and HAP Calculation

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be zero- or one-bedroom, depending on HC's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the pro rata share of the payment standard for the group home size. The pro rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The number of persons in the assisted household equals one assisted person plus any HC-approved live-in aide.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the pro rata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro rata portion of the reasonable rent for the group home. In determining reasonable rent, HC must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

22.4.2 Inspections Standards

The requirements described in the chapter on INSPECTIONS apply to group homes except as modified by 24 CFR 982.614.

22.5 SHARED HOUSING

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The unit may be a house or an apartment. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons.

Shared housing may be offered in a number of ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company.

The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by HC, a live-in aide may reside with the family to care for a person with disabilities. HC will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

See 24 CFR 982.615 - 982.618.

22.5.1 Payment Standard, Utility Allowance, and HAP Calculation

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the pro rata share of the payment standard for the shared housing unit size.

The pro rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted family living in shared housing is the pro rata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro rata portion of the reasonable rent for the shared unit. In determining reasonable rent, HC should consider whether sanitary and food preparation areas are private or shared.

22.5.2 Inspections Standards

HC may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets inspections standards. The requirements described in the chapter on INSPECTIONS apply to shared housing except as modified by 24 CFR 982.618.

22.5.3 Use of Exception Payment Standards

[Notice PIH 2025-12]

HC may determine, in accordance with its policies on Reasonable Accommodation and Payment Standards, that an exception payment standard for the unit size may be necessary as a reasonable accommodation. The approved reasonable accommodation payment standard may not exceed 150% of FMR (MTW policy) and must be rent reasonable. The pro-rata calculation required for shared housing only applies to the payment standard and utility allowance. The pro-rata calculation should not be applied to the FMR. Cooperative Housing

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged *rent*, a cooperative member is charged a *carrying charge*.

The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to HCV limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

See 24 CFR 982.619.

22.5.4 Payment Standard, Utility Allowance, and HAP Calculation

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the gross rent (monthly carrying charge for the unit, plus any utility allowance) minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

22.5.5 Inspections Standards

All standard INSPECTIONS requirements apply to cooperative housing units. Remedies related to 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with NSPIRE, HC may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of NSPIRE.

No housing assistance payment can be made unless unit meets NSPIRE and the defect is corrected within the period as specified by HC and HC verifies correction.

In addition to regular breaches of NSPIRE, breaches of NSPIRE by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement.

22.6 MANUFACTURED HOMES

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in three different ways:

- A family can choose to rent a manufactured home already installed on a space and HC will permit it. In this instance, program rules are the same as when a family rents any other residential housing, except that there are special NSPIRE requirements as provided below.
- A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program.
- HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. HC may, but is not required to, provide assistance for such families.

See 24 CFR 982.620-982.624.

22.6.1 Special Policies for Manufactured Homeowners Who Lease a Space

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a designated Tenancy Addendum (Form 52642-A) and designated HAP Contract (Form 52642) for this special housing type.

22.6.2 Payment Standard, Utility Allowance, and HAP Calculation

Payment Standards

The HC payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for HC's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

Utility Allowance

HC must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), HC may pay the remainder to the family, lender, or utility company.

Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid utilities.

Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family.

In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

Rent Reasonableness

Initially, and at least annually thereafter, HC must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. HC must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly housing assistance payment, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

If requested by HC, the owner must give HC information on rents charged by the owner for other manufactured home spaces.

22.6.3 Inspections Standards

The requirements described in INSPECTIONS apply to manufactured homes. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

22.7 HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

Note: HC is currently approved to operate the Homeownership program; however, is currently working on developing the program prior to implementation. The policies below will become effective upon implementation of the Homeownership program (date TBD).

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single down payment assistance grants. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

22.7.1 Family Eligibility

[24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. HC may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the HCV program.
- The family must qualify as a first-time, homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home.
    - HC may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not HC's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term full-time employment means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
    - Families will be considered “continuously employed” if the break in employment does not exceed four months.
    - HC will count self-employment in a business when determining whether the family meets the employment requirement.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

- Additional HC eligibility requirements:
    - The family has had no family-caused violations of HUD's NSPIRE standards within the past year.
    - The family is not within the initial one-year period of a HAP Contract.
    - The family owes no money to HC.
    - The family has not committed any serious or repeated violations of a PHA-assisted lease within the past year.
    - Participants in the Section 8 homeownership option must enroll in HUD approved Home Buyer Education classes for pre- and post-purchase homeownership counseling program and be deemed to be "mortgage ready" before a homeownership voucher will be issued. At a minimum the counseling will cover the following:
        - Home maintenance
        - Budgeting and money management;
        - Credit counseling;
        - How to negotiate the purchase price;
        - How to obtain homeownership financing;
        - How to find a home; and
        - Advantages of purchasing and how to locate a home in an area that does not have a high concentration of low-income families
    - The family's income must be equal to or exceed two times the payment standard for the family's unit size. Public assistance income may not be used for meeting this requirement, except for households in which the head or spouse is elderly or disabled and households that include a disabled person other than head or spouse. (Public Assistance includes federal housing assistance or the housing component of a welfare grant; TANF assistance; SSI that is subject to an income eligibility test; food stamps; general assistance or other assistance provided under a Federal, state or local program that provides assistance available to meet family living or housing expenses.)
    - At a minimum, the participant will be required to provide one percent of the home purchase price as a down payment and/or $1,500 whichever is higher, out of pocket funding. (FSS escrow money excluded).
    - Current Section 8 program participants must be in full compliance with their lease and program requirements and must terminate their current lease arrangement in compliance with the lease.

22.7.2 Selection of Families

[24 CFR 982.626]

HC may limit homeownership assistance to families or purposes defined by HC and may prescribe additional requirements for commencement of homeownership assistance for a family.

Applications will be offered to eligible candidates in the following priority order with date and time of application the deciding factor among priority groups:

1. Family Self Sufficiency (FSS) program participants with escrow accounts or FSS graduates who have sufficient earnings (as determined by HC) to qualify for an appropriate loan amount. The self-sufficiency program must include the following: an individual training and services plan that states the goals of the individual and the resources and supportive services provided to achieve those goals must be executed; training must involve financial planning as well as job training and job search assistance.
2. HCV program participants with sufficient earnings (as determined by HC) to qualify for an appropriate loan amount.
3. Program participants who are participating in an Individual Development Account program, which includes the following economic literacy training: money management skills, budgeting, credit counseling, financial literacy, family economics, etc.

The elderly and disabled are eligible to participate.

Screening and Determination of Readiness

HC will review the Section 8 Home Ownership Voucher Program with all eligible voucher holders (FSS and elderly/disabled participants) at the initial briefing and regular recertification. All interested participants will be forwarded a Home Ownership Voucher Pre-Application to identify their level of readiness for homeownership.

The Pre-Application will be reviewed by Housing Connect Family Self-Sufficiency Coordinator/or other staff member for debt/asset ratio; minimum qualification status; employment status; escrow balances and Section 8 Program compliance status. If necessary, the FSS Coordinator or other staff member will schedule an appointment with the family to further determine their mortgage readiness.

The participant will be assigned a rating value of one of the following designations: Level 1, Level 2 or Level 3. These levels are designed to indicate the readiness of each participant for Section 8 homeownership.

- **Level 1:** Family is within 6 months of being fully ready for homeownership. (This includes one year on housing paying utilities and rent on time) Employment history is stable and the family has access to the required assets needed to secure a mortgage. A minimum of 8 hours pre-homeownership counseling either has been completed or will be completed in the next 6 months.
- **Level 2** Family is between 6 and 12 months of being fully ready for homeownership. Family may be in the process of completing the FSS goals and/or is close to securing the required amount of funds for down payment. Additional time is needed for homebuyer requirements and completion of homeownership counseling.
- **Level 3** Family is more than 12 months from being ready for homeownership. Family may have unstable employment history, insufficient debt/asset ratio, no funds available for down payment, and/or requires homeownership counseling.

Section 8 participants that are determined to be at level 1 or 2 will be referred to the Community Development Corporation (CDC) for counseling and assessment. The FSS Coordinator/or other staff member will assist the family in meeting the requirements for a homeownership voucher and work as a

liaison between the homeownership-counseling partner, potential mortgage lender and the family. Every three months, the FSS Coordinator/or other staff member will conduct a case summary review of all participants determined to be at level 1 or 2 to determine if a program level change is needed.

Section 8 participants determined to be at level 3 will not be consistently monitored. Rather they will be given the initial guidance to begin preparing for mortgage readiness, given information about the FSS/FWCM programs, and they will be required to contact a Housing Connect staff member for reevaluation.

22.7.3 Eligible Units

[24 CFR 982.628]

In order for a unit to be eligible, HC will determine that the unit satisfies 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 must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by HC and by an independent inspector designated by the family.
- The unit must meet NSPIRE Standards (see INSPECTIONS).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

HC must not approve the unit if HC has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

Units Not Yet Under Construction

Families may enter into contracts of sale for units not yet under construction. However, HC will not commence homeownership assistance for the family for that unit until:

1. Either the responsible entity completes the environmental review as required by 24 CFR part 58 and HUD approved the environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the PHA in writing of environmental approval of the site prior to construction commencement; and

2. Construction of the unit has been completed and the unit has passed the required NSPIRE inspection and independent inspection as addressed elsewhere in this chapter.

HC-Owned Units

For HC-owned units all of the following conditions must be satisfied:

- HC informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a HC-owned unit is freely selected by the family without HC pressure or steering;
- The unit is not ineligible housing;
- HC obtains the services of an independent agency to inspect the unit for compliance with NSPIRE standards, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any HC-provided financing. All of these actions must be completed in accordance with program requirements.

Lease-To-Purchase

Lease-to-Purchase agreements are considered rental property and are subject to the normal tenant-based Section 8 rules and regulations. The family will be subject to the homeownership requirements at the time the family is ready to exercise the homeownership option under the lease-to-purchase agreement.

22.7.4 Additional HC Requirements for Search and Purchase

[24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. An applicant will have a maximum of 180 days to find a home and enter into a "Contract for Sale." If an applicant is unable to enter into a "Contract for Sale" before the end of the 180 days deadline, the applicant will be allowed to continue to utilize the voucher in a rental situation.

Any extension beyond 180 days will be at the sole discretion of HC's Housing and Resident Services Director or their designee. HC will require reports on the purchaser's progress in finding and purchasing a home every 30 days after they have been determined to be eligible for the homeownership option. If the purchaser is unable to purchase a home within the maximum time limit, HC will require the family to use the voucher to lease a unit.

22.7.5 Homeownership Counseling

[24 CFR 982.630]

Participants in the Section 8 homeownership option must complete a pre-purchase and post purchase home ownership counseling program and be deemed to be "mortgage ready" before a homeownership voucher will be issued. The HC FSS Coordinator/or other staff member will review the applicant's pre-application and work with the family to determine mortgage readiness.

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by HC. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;

- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

HC may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families. HC may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If HC offers a program of ongoing counseling for participants in the homeownership option, HC shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If HC does not use a HUD-approved housing counseling agency to provide the counseling, HC will ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

22.7.1 Home Inspections, Contract of Sale, and HC Disapproval of Seller

[24 CFR 982.631]

Home Inspections

HC will not commence monthly homeownership assistance payments for a family until HC has inspected the unit and has determined that the unit passes NSPIRE standards.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components. Additionally, the Utah Real Estate Commission must certify the independent professional home inspector selected by the purchaser is licensed.

HC may not require the family to use an independent inspector selected by the HC. The independent inspector may not be a HC employee or contractor, or other person under control of HC. However, HC may establish standards for qualification of inspectors selected by families under the homeownership option.

Copies of the independent inspection report must be provided to the purchaser and HC. Based on the information in this report, the purchaser and HC will determine whether any pre-purchase repairs are

necessary. HC may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with NSPIRE standards.

Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.
- A contract for the sale of a unit not yet under construction must meet all above requirements, and requirements below. Commencement of construction in violation of the below requirements voids the purchase contract.
    - The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628; and
    - The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

Disapproval of a Seller

In its administrative discretion, HC may deny approval of a seller for the same reasons HC may disapprove an owner under the regular HCV program. See Owner Disapproval.

22.7.2 Financing

[24 CFR 982.632]

HC may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt.

Financing Requirements and Restrictions

Participating families are responsible for securing financing for the purchase of a home that is insured or guaranteed by the state or federal government, or complies with secondary mortgage market underwriting requirements, or complies with generally accepted private sector underwriting standards. HC will not require that families acquire financing from one or more specified lenders.

The following forms of financing are prohibited:

- Balloon payment mortgages
- Variable interest rate loans
- Seller financing
- Interest only loans

Participating families may use one of two financing options in the Section 8 homeownership program:

1. **First Mortgage Options:** The first option allows the Section 8 homeownership participant (borrower) to secure a first mortgage that covers the entire purchase prince of the home. HUD – Mortgagee Letter 2005-32 states that 'mortgage lenders may now treat the monthly home ownership assistance payment as an "offset" to the monthly mortgage payment.'

   In this option, the participant will make a payment for their portion of the monthly mortgage payment (approximately 30% of their monthly adjusted income) directly to the lender, and HC will pay the remainder of the mortgage payment directly to the lender.

2. **Combined First and Second Mortgage Option:** The second option allows the Section 8 homeownership participant (borrower), who cannot secure a first mortgage that will be sufficient to cover the full purchase price of a home in their area, the alternative of combining a first and second mortgage to purchase a home. The participant (borrower) will secure a first mortgage equal to the amount determined to be affordable for the borrower by the lender, based on household income. Then the participant (borrower) will secure a second mortgage equal to the balance of loan funding necessary to support the purchase price of the home. In most cases, the second mortgage will be provided by a HC partner.

   In the combined first and second mortgage option, the family is responsible for making monthly payments for the full amount of the first mortgage directly to the lender. The family's Section 8 subsidy is applied to the second mortgage payment and is paid directly to the second mortgage holder.

Down payment

A minimum down payment (not including closing costs) of 1% or $1,500 (whichever is greater) of the purchase price is required for participation in the homeownership program.

22.7.3 Continued Assistance Requirements; Family Obligations

[24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, HC will not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to HC the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to HC or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by HC or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify HC before moving out of the home.
- The family must notify HC if the family defaults on the mortgage used to purchase the home.
- The family must provide HC with information on any satisfaction or payment of the mortgage debt.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).
- During the period of time the participant is receiving homeownership assistance, the family may not take out a home equity loan without the written consent of HC.
- During the period of time the participant is receiving homeownership assistance, the family must supply required information regarding income and family composition in order to calculate correctly total tenant payment and homeownership assistance.
- At regular recertification, the participant must document that they are current on mortgage, insurance and utility payments; other debt incurred to purchase the home; and any sale or other transfer of interest in the home.

22.7.4 Maximum Term of Homeowner Assistance

[24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

22.7.5 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, HC will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the HCV program. HC will use the calculations and standards applicable to its traditional HCV program participants (i.e. not MTW Stepped Rent Treatment Group policies).

The payment standard for a family is the greater of:

- The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or
- 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.

Homeownership expenses (not including cooperatives) may only include amounts allowed by HC to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The HC-approved allowance for maintenance expenses;
- The HC-approved allowance for costs of major repairs and replacements;
- The HC utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if HC determines that allowance of such costs as homeownership expenses is needed

as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;

- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by HC to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The HC-approved allowance for maintenance expenses;
- The HC-approved allowance for costs of major repairs and replacements;
- The HC utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if HC determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

HC's housing assistance payment will be paid directly to the lender. If the assistance payment exceeds the amount due to the lender, HC will pay the excess directly to the family.

22.7.6 Portability

[24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and HC policies (see PORTABILITY), a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program or bill HC (the initial PHA).

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

22.7.7 Moving with Continued Assistance

[24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance or with voucher homeownership assistance.

HC will determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

- The requirement that a family must be a first-time homeowner is not applicable.
- The requirement for pre-assistance counseling is not applicable. However, HC may require that the family complete additional counseling (before or after moving to a new unit with continued homeownership assistance).

Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

HC must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and
- The family has moved, or will move, from the home within the period established or approved by HUD.

HC may deny permission to move to a new unit with continued voucher assistance:

- If HC has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the HC's policy regarding number of moves within a 12-month period. See policies in MOVING WITH CONTINUED ASSISTANCE.

HC will not require additional counseling of any families who move with continued assistance.

Defaults

If a participant in the homeownership voucher program defaults on his or her mortgage loan (i.e. fails to fulfill a monthly payment obligation as required by his or her Deed of Trust note on a timely basis) as determined by the lender, the participant will not be able to use their homeownership voucher for rental housing. The head of household or other family members must reapply for the program via a specific waiting list maintained by HC.

Recapture

If the participant sells the home prior to the maximum 15-year subsidy limit, a percentage of the homeownership assistance provided to date must be recaptured. The terms of the sale agreement will be reviewed by a HC staff member to determine the amount of profit earned in relation to participant payments and Housing Connect Section 8 subsidy provided.

- Only those proceeds realized upon refinancing that are retained by the family are subject to recapture.
- Sales proceeds that are used by the family to purchase a new home with Section 8 assistance are not subject to recapture. The family may also refinance the loan to take advantage of a lower interest rate without penalty.

22.7.8 Denial or Termination of Assistance

[24 CFR 982.638]

At any time, HC may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

HC may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy, with the exception of failure to meet obligations under the Family Self-Sufficiency program as prohibited under the alternative requirements set forth in FR Notice 12/29/14.

In particular, HC will terminate homeownership assistance if the family violates any of the following family obligations:

- Transfer or conveyance of ownership of the home;
- Failure to provide requested information to HC or HUD;
- Failure to notify Housing Connect before moving out of the home.

Housing Connect reserves the right to amend any of the provisions in this Plan not governed by federal regulations; in order to allow a participant that would not otherwise qualify the opportunity to participate in the Section 8 Housing Choice Voucher Homeownership Option at HC's discretion.

Homeownership assistance for a family automatically terminates 180 calendar days after the last homeownership assistance payment on behalf of the family. However, HC may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

HC must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

CHAPTER 23: PROJECT BASED VOUCHER (PBV) ASSISTANCE

23.1 OVERVIEW

[24 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21]

The Project-Based Voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to attach the funding to specific units rather than using it for tenant-based assistance.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, HC's policies for the tenant-based voucher program contained in this Administrative Plan also apply to the PBV program and its participants. The provisions of the tenant-based voucher program that do not apply to the PBV program are described at 24 CFR 983.2.

23.2 GENERAL REQUIREMENTS

23.2.1 PBV Program Cap

HC will operate a project-based voucher program using up to 35 percent of its authorized ACC units for project-based assistance, pursuant to MTW waiver 9.a – Increase PBV Program Cap, as referenced below. HC may attach PBV assistance to existing housing, newly constructed or rehabilitated housing.

> ***MTW Policy***
>
> **MTW Waiver:** 9.a. – Increase PBV Program Cap
>
> **Approval Date:** FY 2022-2023
>
> **Description:** HC has approved up to 35% of authorized HCV units to be project based.

An analysis of impact must be conducted if HC is project-basing 50 percent or more of its authorized voucher units.

23.2.2 PBV Project Cap

> ***MTW Policy***
>
> **MTW Waiver:** 9.b. – Increase PBV Project Cap
>
> **Approval Date:** FY 2022-2023
>
> **Description:** Under this activity, HC may eliminate or raise the existing cap on the number of units within a project and allow up to 100% of units in a project to be placed under a PBV Housing Assistance Payments contract.
>
> HC may eliminate or raise the project cap for those PBV projects that the agency determines to be consistent with the goal of increasing housing choice for Housing Choice Voucher program participants.
>
> HC may eliminate or raise the project cap for projects located in Salt Lake County including but not limited to underserved areas and areas of opportunity.

HC will continue to be subject to the applicable provisions of PIH Notice 2013-28 or successor notices.

23.2.3 HC-Owned Units

Until/unless waived by HC pursuant to a MTW waiver, for HC-owned units (as defined in 24 CFR 982.4), an independent entity (as defined in 24 CFR 982.4) must perform the following functions:

- When the owner carries out development activity or substantial improvement (as defined in 24 CFR 983.3(b)), the independent entity must review the evidence and work completion certification submitted by the owner and determine if the units are complete in accordance with 24 CFR 983.156; and
- Determine whether to approve substantial improvement (as defined in 24 CFR 983.3(b)) to units under a HAP contract in accordance with 24 CFR 983.212.

Note: see MTW Waivers related to Inspecting HC-Owned Units and Rent for HC-Owned Units.

HC may only compensate the independent entity from ongoing administrative fee income (including amounts credited to the administrative fee reserve). HC may not use other program receipts to compensate the independent entity for its services. HC and the independent entity may not charge the family any fee for the appraisal, or the services provided by the independent entity.

23.2.4 Relocation Assistance

[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. [24 CFR 983.7]. The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B.

23.2.5 Equal Opportunity

[24 CFR 983.8]

HC will comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, HC will comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

23.3 PROPOSAL AND PROJECT SELECTION

23.3.1 Non-Competitive Project Selection

[24 CFR 983.51(c)]

HC may select units without a competitive selection process in certain circumstances as described below.

MTW Policy

MTW Waiver: 9.c. – Elimination of PBV Selection Process for PHA-owned Projects Without Improvement, Development, or Replacement (HCV)

Approval Date: FY 2022-2023

Description: This activity allows HC to eliminate the selection process in the award of Project Based Vouchers to properties owned by HC that are not public housing without engaging in an initiative to improve, develop or replace a public housing property or site.

HC may award PBVs to projects meeting this criteria based on approval by the HC Board of Commissioners and provided that:

1) A subsidy layering review is performed where required by regulation;
2) HC completed site selection requirements;
3) NSPIRE inspections shall be performed by an independent entity (unless waived pursuant to an MTW waiver); and,
4) The property is owned by a single-asset entity of HC in conformance with HUD PIH Notice 2017-21 or successor notice.

HC shall continue to be subject where applicable to HUD PIH Notice 2013-27 or successor notice.

HC may select units for PBV assistance without following a competitive process in the following circumstances:

- HC may select a project consisting of HC-owned units. The units must continue to meet the definition of HC-owned for the initial two years of the HAP contract unless there is a transfer of ownership approved by HUD.
- HC may attach PBVs to projects in which HC has an ownership interest or has control of, without following a competitive process, in cases where HC is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory through any available legal removal tool within five years of the project selection date.
- HC may select for future PBV assistance a project currently under the public housing program, or a project that is replacing the public housing project, in which a PHA has no ownership interest, or which a PHA has no control over, provided:
    - The public housing project is either still in the public housing inventory or had been removed from the public housing inventory through any available legal removal tool within five years of the project selection date;
    - The PHA that owned or owns the public housing project does not administer the HCV program;
    - The project selected for PBV assistance was specifically identified as replacement housing for the impacted public housing residents as part of the public housing demolition/disposition application, voluntary conversion application, or any other application process submitted to and approved by HUD to remove the public housing project from the public housing inventory. The replacement housing does not have to be on the same site as the original public housing, but the number of contract units in the

replacement project may not exceed the number of units in the original public housing project by more than a de minimis amount for this exception to apply.

- HC may select a project that underwent an eligibility event within five years of the project selection date, in which a family (or families) qualifies for enhanced voucher assistance and provided informed consent to relinquish its enhanced voucher for PBV assistance.
- HC may select one or more PBV projects with units made exclusively available to VASH families on the site of a VA facility [FR Notice 8/13/24]. The method of project selection must comply with all other requirements under 24 CFR 983.51.

In all circumstances listed above, HC shall notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-Year Plan.

Alternative PBV Selection Process

MTW Policy

MTW Waiver: 9.d. – Alternative PBV Selection Process (HCV)

Approval Date: FY 2026

Description: This activity waives the requirements of 983.51 (as superseded by HOTMA and Notice PIH 2017-21) to allow HC to establish an alternative competitive process in the award of PBVs that are owned by non-profit, for-profit housing entities, or by the agency that are not public housing. Under this activity, HC will implement an alternative PBV selection process that permits HC to project-base under the following conditions:

1. Publicly Funded Projects: The property was previously selected through a competitive process for affordable housing funding administered by a federal, state, or local agency (e.g., LIHTC, HOME, CDBG, state trust funds) within the past ten years, and the competition included affordability or rent-restriction criteria. This activity also eliminates the requirement that the previous selection process not consider rental assistance for the proposed project and allows proposers to include PBV assistance in their calculations.
2. Mission-Aligned Properties: The property is owned or developed by a nonprofit, mission-driven entity, or local government body whose stated purpose aligns with HC's housing goals and who has demonstrated need for PBV assistance to maintain affordability or financial viability.
3. Strategic Opportunities: HC may also project-base units in developments that were not competitively selected if the PBV assistance will: (a) Preserve long-term affordability; (b) Support specialized populations (e.g., seniors, individuals experiencing homelessness, people with disabilities); or (c) Promote access to housing opportunities in under-resourced areas.

HC will document the rationale for each PBV award under this alternative process, including prior competitive funding records (if applicable), project characteristics, population served, and consistency with HC's strategic priorities. Awards will be subject to HC Board approval.

Safe Harbors: HC has adopted MTW waiver 5.c., which authorizes HC to perform NSPIRE inspections on PBV units that it owns, manages, and/or controls; therefore, inspections for HC-owned units under this activity do not need to be inspected by an independent entity. Except as modified by approved MTW waivers, HC remains subject to the requirements of PIH Notice 2013-27, or any successor guidance, as applicable.

23.3.2 Competitive Selection of Proposals

[24 CFR 983.51(b)]

HC may select PBV proposals by either of the following two methods.

- **Request for PBV Proposals.** HC may solicit proposals by using a request for proposals to select proposals on a competitive basis. HC shall 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. HC may establish selection procedures that combine or are in conjunction with other federal, state, or local government housing assistance, community development, or supportive services competitive selection processes, so long as they comply with proposal and project selection procedures noted in this chapter.
- **Proposals that were previously selected based on a competition.** This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program, community development, or supportive services program that was subject to a competition in accordance with the requirements of the applicable program, 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. Under these circumstances, HC shall not conduct another competition.

23.3.3 Solicitation and Selection of PBV Proposals: RFP Method

[24 CFR 983.51(b)(1)]

HC may issue a request for PBV proposals (RFP) when it determines that a competitive selection process has a reasonable likelihood of generating proposals that will expand housing opportunities and housing choice in the City. Owner proposals will be requested in an advertisement with a reasonable deadline and posted on HC's website. HC may either establish a single deadline for submission or establish multiple deadlines. For example, HC may publish a public notice indicating that proposals will be accepted for a one-year period with quarterly proposal submission deadlines.

HC will not limit proposals to a single site or impose restrictions that explicitly or practically exclude owners from submitting project-based proposals on different sites. HC may restrict proposals to those that have a certain number of bedrooms based on waiting list or community need. Owners that request an application package will be sent an RFP application and information packet or provided with instructions on how to download the application from HC's website. The application package will contain the following:

- A description of the PBV program;
- Project selection criteria;

- Sample program documents including payment standard schedule, utility allowance schedule and sample HAP agreement;
- An application/proposal form;
- Information about application due date;
- Other information as may be required by HC.

At HC's option, a Bidders Conference may be provided for owners who would like additional information about the program.

HC will review only proposals submitted in response to the Request for Proposals advertisement and submitted by the stated deadline. The HC will review proposals for completeness and compliance with RFP requirements. Proposals must include the following information (threshold requirements):

- Property description, including unit sizes, number of vacancies, eligible occupants;
- Evidence that the property is eligible housing;
- Evidence that the property complies with the cap on the number of PBV units per project, if applicable;
- Evidence that the property meets the applicable site and neighborhood selection standards;
- Owner certification indicating understanding and agreement to abide by all HC and HUD rules and regulations governing the PBV program;
- Description of previous management experience and participation in HUD subsidized housing programs;
- Written tenant selection policy and procedures;
- Proposed rent levels accompanied by rent comparables for similar unassisted units in the area;
- Information on how the site is consistent with the deconcentration goals already established in the HC's PHA Plan and with civil rights laws and regulations, including HUD's rules on accessibility;
- Owner's agreement to select tenants from the HC waiting list, if applicable; and,
- Other information that may be required by HC to evaluate the proposal.

In addition, proposals for PBV New Construction and/or Substantial Rehabilitation must include:

- Description of project including work plans;
- Zoning permits and evidence of site control;
- Disclosure of Low Income Tax Credit use or lien;
- Statement of Sources and Uses for Funds to develop the project;
- Operating proforma;
- Descriptions of historic and environmental review status;
- Owner's plan to manage and maintain property; and,

- Other information that may be required by HC to evaluate the proposal.

HC will rate and rank proposals using criteria published in the RFP. Such criteria shall be further defined in the RFP issued by HC and generally relate to:

- Owner experience and capability to build, rehabilitate and or manage housing as identified in the RFP;
- Financial feasibility of the project including commitments for development financing where applicable and adequacy of projected operating funding;
- Extent to which the project furthers the goal of deconcentrating poverty and expanding housing and economic opportunities;
- Extent to which the project supports HC goals related to permanent supportive housing, youth aging out of foster care, reducing homelessness, support for City and/or other revitalization initiatives and/or other goals identified in the RFP;
- Extent to which the project demonstrates an appropriate supportive services plan based on projected resident needs; and,
- Other criteria as defined by HC.

Incomplete proposals will not be processed; however, HC may provide the owner with an opportunity to address any deficiencies. If the owner fails to provide the needed information within a reasonable time as specified by HC, the proposal will be rejected. Proposals which would require permanent displacement of tenants, will be rejected. Proposals where there is not site control will be rejected. Proposals where the property has liens attached and these liens are a result of the current owner's negligence will be rejected.

Proposals are subject to review and approval by the HC Board of Commissioners. The proposal selection date is the date that the proposal is approved by the HC Board of Commissioners.

23.3.4 Selection of Proposals Subject to a Previous Competition

[24 CFR 983.51(b)(2)]

If sufficient funds are available, HC may elect to accept proposal(s) for PBV assistance from owner(s) that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis, provided that the proposal(s) are consistent with the site selection standards, further compliment other local activities, and are consistent with HC's PHA Plan. The selection under the prior competition must have occurred within three years of the PBV proposal selection date, and the earlier competition could not involve consideration that the project would receive PBV assistance.

On an ongoing basis, HC may directly solicit proposal(s) from owners that qualify under this method and/or may review and consider proposal(s) solicited by project owners. In order for HC to consider a proposal under this method, the owner must submit the following to HC:

- A description of the project including location, unit mix and type, as well as amount of proposed PBV units with sufficient detail to determine that the property is eligible housing, complies with the cap on the number of PBV units per project, and meets the site selection standards;

- Current operating budgets and operating proforma showing current and proposed rents, utility allowances, vacancy rates, and project expenses;
- A description of the owner entity and any partners including the management team;
- Description of the need for vouchers and services offers on site;
- Any other additional information needed to make a determination that the project complies with HC policy priorities, federal, state, and local laws.

If funds for project-based vouchers are available, HC may select proposals that are consistent with the site selection standards, further compliment other local activities, and are consistent with HC's PHA Plan. HC shall provide prompt notice to the owner and public notice of its selection of units for PBV assistance under this selection method. Proposals selected under this method are subject to the NSPIRE inspection, subsidy layering review, environmental review, and all other applicable requirements noted above, as applicable.

23.3.5 Project or Proposal Selection

[24 CFR 983.153(c)(3)]

Inspections Required Prior to Project or Proposal Selection

[24 CFR 983.51(e)]

HC shall examine the proposed site before the proposal or project selection date to determine whether the site complies with the **Site Selection Standards**, as applicable.

Written Notice of Proposal or Project Selection

[24 CFR 983.51(f) and (h) and 24 CFR 983.153(c)(3)]

Within 30 business days of HC Board approval of a PBV selection, HC will notify the selected owner in writing of the owner's selection for the PBV program. HC's written notice shall contain the following elements, as applicable:

- The written notice of proposal selection shall require the owner to provide a written response accepting the terms and requirements stated in the notice.
- When an environmental review is required, if the review has not been conducted prior to the project or proposal selection date, HC's written notice shall stipulate that the selection is subject to completion of a favorable environmental review and that the project or proposal may be rejected based on the results of the environmental review.
- For newly constructed housing and rehabilitated housing in projects to which labor standards apply, HC's written notice shall state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination.
- If the project contains HC-owned units, HC must provide the written notice of proposal or project selection to the responsible HC official, and that official must certify in writing that HC accepts the terms and requirements stated in the notice.

HC shall also give prompt public notice of such selection(s), which may include publication of a notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

HC will also notify in writing all owners that submitted proposals that were not selected. Owners of rejected proposals will be offered an opportunity to discuss the rejection in person with HC proposal evaluators.

23.3.6 Ineligible Units

[24 CFR 983.52]

HC shall not attach or pay PBV assistance to units that meet the following criteria:

- **Ineligible Housing Types:** HC shall not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing.
- **Owner-Occupied Units: Owner-Occupied Units:** HC shall not attach or pay PBV assistance for a unit occupied by an owner. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program.
- **Units Occupied by an Ineligible Family:** HC shall not attach or pay PBV assistance for a unit that is occupied by a family who is not eligible for HCV and PBV assistance. Additionally, for a family to be eligible for assistance in the specific unit, the unit must be appropriate for the size of the family under the HC's subsidy standards and the total tenant payment for the family must be less than the gross rent for the unit, such that the unit will be eligible for a monthly HAP.
- **Subsidized Housing Units:** HC shall 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 rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, HC may attach assistance for a unit subsidized with Section 515 interest reduction payments (42 U.S.C. 1485);
    - 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 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 HC in accordance with HUD requirements.

23.3.7 Commencement of Construction or Rehabilitation

HC shall not enter into a HAP contract for units where:

- Construction or rehabilitation began *after* the date of:
  - The proposal submission (for projects selected through a competitive process), or
  - The HC Board's approval to project-base the units (for projects not subject to competition); and
- Before the effective date of an Agreement to Enter into a Housing Assistance Payments contract (AHAP).

However, HC may still proceed with executing a HAP contract if:

- HC used its discretion under 24 CFR 983.154(f) to develop units without an AHAP;
- HC signed an AHAP after construction or rehab began, as long as all requirements under 24 CFR 983.153 were met (see **Environmental Review** and requirements listed in **Rehabilitated And Newly Constructed Units**, as applicable); or
- ***(Upon implementation of the applicable HOTMA provision)*** HC plans to begin construction or rehab after the HAP contract is signed, as allowed under 24 CFR 983.157 (once implemented).

HUD may approve requests for additional exceptions.

23.4 SUBSIDY LAYERING REQUIREMENTS

[24 CFR 983.11, 24 CFR 983.153(b), 24 CFR 4.13, Notice PIH 2013-11, and FR Notice 3/13/23]

HC may provide PBV assistance only in accordance with HUD subsidy layering regulations and other requirements.

Subsidy layering requirements apply to new construction and rehabilitation housing that will include forms of government assistance other than PBVs prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP).

Subsidy layering requirements do not apply to existing housing, when PBV is the only governmental assistance, or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

When HC selects a new construction or rehabilitation project, HC will require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner. FR Notice 3/23/23 contains a list of all required documentation.

Either HUD or a HUD-approved housing credit agency (HCA) in HC's jurisdiction performs the subsidy layering review. HC will request an SLR though its local HUD Field Office or, if eligible, through a participating HCA.

23.4.1 Additional Assistance after HAP Contract

[24 CFR 983.11(d)]

The HAP contract shall 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, unless the owner discloses additional assistance in accordance with HUD requirements.

For newly constructed or rehabilitated housing under a HAP contract, the owner must disclose to HC information regarding any additional related assistance from the federal government, a state, or a unit of general local government, or any agency or instrumentality thereof. Related assistance includes but is not limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

If the additional related assistance meets certain threshold and other requirements established by HUD, a subsidy layering review may be required to determine if it would result in excess public assistance to the project. HC shall adjust the amount of the housing assistance payments to the owner to compensate in whole or in part for such related assistance.

23.5 SITE SELECTION STANDARDS

23.5.1 Compliance with PBV Goals, Civil Rights Requirements, and NSPIRE Site Standards

[24 CFR 983.57(b)]

HC 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 HC has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities.

In addition, prior to selecting a proposal, HC 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 NSPIRE site and neighborhood standards at 24 CFR 5.703.

It is HC's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal HC will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, HC will grant exceptions to the 20 percent standard where HC determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, 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.

23.5.2 Existing and Rehabilitated Housing Site and Neighborhood Standards

[24 CFR 983.57(d)]

Before entering into an agreement to enter into a HAP contract or entering into a HAP contract for existing or rehabilitated housing HC will determine 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.

23.5.3 New Construction Site and Neighborhood Standards

[24 CFR 983.57(e)]

Before selecting a project for PBV assistance HC will determine that a site for newly constructed housing meets the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

23.6 ENVIRONMENTAL REVIEW

[24 CFR 983.56]

Activities under the PBV program are subject to HUD environmental regulations at 24 CFR parts 50 and 58, other than where exceptions are provided in the PBV regulations.

For projects or proposals that were selected in accordance with the site selection standards at 24 CFR 983.55 in effect on or after June 6, 2024, no environmental review is required to be undertaken before entering into a HAP contract for existing housing, except to the extent a Federal environmental review is required by law or regulation relating to funding other than PBV.

When an environmental review is required, 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.). HC shall not enter into an AHAP or HAP contract until it has complied with the environmental review requirements.

HC may not enter into an AHAP contract or a HAP contract with an owner, and HC, 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 one of the following occurs:

- The responsible entity has determined that the activities to be undertaken are exempt under 24 CFR 85.34(a) or categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b);
- The responsible entity has completed the environmental review procedures required by 24 CFR Part 58, and HUD has approved the PHA's Request for Release of Funds and Certification (form HUD-7015.15). HUD approves the Request for Release of Funds and Certification by issuing a Letter to Proceed or form HUD-7015.16, thereby authorizing HC to execute an AHAP or HAP contract, as applicable; or
- HUD has performed an environmental review under 24 CFR Part 50 and has notified HC in writing of environmental clearance.

HC shall require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

23.7 DWELLING UNITS

23.7.1 Inspections Standards

[24 CFR 983.101]

The inspections standards for the tenant-based program, including those for special housing types, generally apply to the PBV program (see INSPECTIONS chapter). Inspections requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

23.7.2 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.

23.7.3 Housing Accessibility for People with Disabilities

PBV 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 percentage of accessible dwelling units must comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

23.7.4 Inspecting Units

Pre-selection Inspection

[24 CFR 983.103(a)]

HC shall examine the proposed site before the proposal selection date. For existing units, HC shall inspect all the units before the proposal selection date, and shall determine whether the units substantially comply with NSPIRE. To qualify as existing housing, units must substantially comply with NSPIRE on the proposal selection date. HC shall not execute the HAP contract until the units fully comply with NSPIRE.

Initial Inspections

[24 CFR 983.103(b), FR Notice 1/18/17, and Notice PIH 2017-20]

> ***MTW Policy***
>
> **MTW Waiver:** Agency-Specific Waver – Acceptance of Local Certificate of Occupancy for Initial PBV Inspections
>
> **Approval Date:** FY 2026

Description: This activity waives the requirements of 24 CFR § 983.103(b) to allow HC to accept the issuance of a Certificate of Occupancy (CO) by a local code enforcement agency in place of a pre-HAP NSPIRE inspection as evidence of a property's compliance with housing quality standards for initial PBV inspections. The inspection will generally be valid for up to six months provided the initial HC-assisted tenant is the first to occupy the unit. HC reserves the right to require a housing quality/NSPIRE inspection as needed in accordance with the requirements below.

- **Existing Housing:** HC shall inspect each contract unit before execution of the HAP contract, and shall not enter into a HAP contract covering a unit until the unit fully complies with NSPIRE.

- **Newly Constructed and Rehabilitated Projects and units that underwent substantial improvement to be added to a HAP contract:**

  Following completion of work pursuant to 24 CFR 983.155, HC (or the independent entity if required) will complete the following inspections, as applicable:

  - For newly constructed housing or rehabilitated housing that is ***developed prior to the HAP contract term***, HC must inspect each proposed PBV unit before execution of the HAP contract. Each proposed PBV unit must fully comply with housing quality standards prior to HAP contract execution.
  - ***(Upon implementation of the applicable HOTMA provision)*** For rehabilitated housing that will undergo development activity ***after HAP contract execution***, HC must conduct unit inspections in accordance with the requirements of 24 CFR 983.157.
  - For units that have undergone substantial improvement (as defined in 24 CFR 983.3(b)) pursuant to 24 CFR 983.207(d) or 983.212, HC shall inspect each unit and confirm that each PBV unit that underwent substantial improvement fully complies with housing quality standards prior to HC adding the unit to the HAP contract, returning the unit temporarily removed to the HAP contract, allowing re-occupancy of the unit, and resuming housing assistance payments, as applicable.

Turnover Inspections

[24 CFR 983.103(c)]

HC shall inspect each contract unit before providing assistance to a new family including at unit turnover. HC will not provide assistance in turnover units until the unit fully complies with NSPIRE.

MTW Policy

MTW Waiver: 5.a. – Pre-Qualifying Unit Inspections

Approval Date: FY 2022-2023

Description: Under this activity, HC may conduct pre-qualifying unit inspections to determine if the unit meets NSPIRE provided that the pre-qualifying unit inspection is done no more than 90 days prior to the participant occupying the unit.

The Pre-Qualifying Unit Inspection policy applies to Pre-Selection Inspections of existing housing, Pre-HAP Contract Inspections and Turnover Inspections.

Families may request an interim inspection by contacting HC at any time in accordance with HC NSPIRE policies.

Biennial Inspections

[24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, HC shall inspect all project-based units. However, HC reserves the right to 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 NSPIRE; turnover inspections are not counted toward meeting this inspection requirement. HC shall generally perform all required inspections in a PBV project at the same time.

If HC has opted to inspect a sample of units and more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, HC shall reinspect 100 percent of the contract units in the building.

Other Inspections

[24 CFR 983.103(e)]

HC shall inspect contract units whenever needed to determine that the contract units comply with NSPIRE and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract, taking into account complaints and any other information coming to its attention in scheduling inspections.

HC shall conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an NSPIRE violation, and shall conduct inspections as needed to determine the basis for exercise of contractual and other remedies for owner or family violation of NSPIRE.

In conducting supervisory quality control NSPIRE inspections, HC will include a representative sample of both tenant-based and project-based units.

Inspecting HC-Owned Units

[24 CFR 983.103(f)]

MTW Policy

MTW Waiver: 5.c. – Inspections Third-Party Requirement

Approval Date: FY 2022-2023

Description: Under this activity HC is authorized to perform NSPIRE inspections on PBV units that it owns, manages, and/or controls.

All such inspections will be conducted using standards found at 24 CFR 982.401 (or corresponding successor standards i.e. NSPIRE).

To ensure the consistent and uniform application of inspections standards, HC supervisory staff will conduct quality control inspections on a random sample of units in accordance with the established Inspection Quality Assurance Method.

Program participants may request an interim inspection by contacting HC in accordance with the policies described in this Plan.

If requested by HUD, HC will obtain the services of a third-party entity to determine if HC owned units pass inspections standards.

Please note special requirements for HC-owned PBVs that are awarded pursuant to MTW Waiver 9.c. Elimination of PBV Selection Process for PHA-owned Projects Without Improvement, Development, or Replacement (HCV) (see PBV Selection Process for HC-Owned Units):

- *The initial pre-selection NSPIRE inspection(s) for these properties/units must be performed by an independent entity, and are not subject to MTW Waiver 5.c. detailed above.*
- *Ongoing inspections (i.e. inspections occurring after the initial PBV award) of these properties/units may utilize MTW Waiver 5.c. and waive the requirement for a third-party to conduct the inspection, allowing HC to conduct inspections on HC-owned PBV units.*

23.8 REHABILITATED AND NEWLY CONSTRUCTED UNITS

[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.

Rehabilitated and newly constructed housing selected for PBV assistance may not at a later date be selected for PBV assistance as existing housing.

23.8.1 Agreement to Enter into HAP Contract (AHAP)

[24 CFR 983.154]

To offer PBV assistance in rehabilitated or newly constructed units, HC shall enter into an Agreement to enter into HAP contract (AHAP) with the owner of the property. In the AHAP, the owner agrees to develop the contract units to comply with HUD's and HC's inspection requirements and HC agrees that, upon timely completion of such development activity in accordance with the terms of the AHAP, HC will enter into an initial HAP contract with the owner for the contract units. The AHAP will cover a single project or it may cover multiple projects that each consist of a single-family building.

The effective date of the AHAP is on or after the date the AHAP is executed, but prior to the commencement of development activity and will be in the form and include the contents required by HUD [24 CFR 983.154(e)]. Development activity will not commence after the date of proposal submission (for housing subject to competitive selection) or the date of HC's board resolution approving the project-basing of assistance at the project (for housing excepted from competitive selection) and before the effective date of the AHAP.

23.8.2 Labor Standards

[24 CFR 983.153(c)]

If an AHAP 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. Further, these Davis-Bacon requirements apply to existing PBV units when the nature of any work to be performed either before the execution of the HAP contract or within 18 months after execution constitutes project development. Any development initiated on existing units within 18 months after the effective date of the HAP contract on projects with nine or more contract units triggers Davis-Bacon requirements.

The AHAP will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates. The addendum to the HAP contract, Form HUD-5679, also includes the required labor standards clauses.

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. HC shall monitor compliance with labor standards.

23.8.3 Equal Opportunity

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

23.8.4 Accessibility

24 CFR 983.153(d)

The design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205; the accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8, including 8.22 and 8.23; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131-12134) and implementing regulations at 28 CFR Part 35, including 24 CFR 35.150 and 35.151, apply to development activity.

23.8.5 Broadband Infrastructure

24 CFR 983.153(e)

Any development activity that constitutes substantial rehabilitation as defined under 24 CFR 5.100 of a building with more than four rental units and where the proposal or project selection date or the start of the development activity while under a HAP contract is after January 19, 2017, will include installation of broadband infrastructure as defined under 24 CFR 100, except where the owner determines and documents that:

1. The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;
2. The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
3. The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

A description of any required work item resulting from this requirement must be included in the AHAP or HAP contract.

23.8.6 Owner Disclosure

[24 CFR 983.154 and 24 CFR 983.210]

The AHAP 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 AHAP, the HAP contract, or HUD regulations.

23.8.7 Evidence of Completion

[24 CFR 983.155]

At a minimum, the owner must submit the following evidence of completion to HC in the form and manner required by HC:

- Owner certification that the work has been completed in accordance with inspection requirements and all requirements of the AHAP; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At HC's discretion, the AHAP may specify additional documentation that must be submitted by the owner as evidence of housing completion.

Until/unless waived by HC pursuant to a HUD-approved MTW waiver, in the case of HC-owned units, the owner must submit evidence and certify to the independent entity that development activity or substantial improvement has been completed, and that all such work was completed in accordance with the applicable requirements. The independent entity must review the evidence to determine whether the development activity or substantial improvement was completed in accordance with the applicable requirements.

23.8.8 HC Acceptance of Completed Units

[24 CFR 983.156]

Upon notice from the owner that the housing is completed, HC shall inspect to determine if the housing has been completed in accordance with the AHAP, including compliance with NSPIRE and any additional requirements imposed under the AHAP.

If the work has not been completed in accordance with the AHAP, HC shall not enter into the HAP contract.

If HC determines the work has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion, HC shall take the following actions:

- For units which will not undergo development activity after HAP contract execution, HC shall submit the HAP contract for execution by the owner and then execute the HAP contract;
- ***(Upon implementation of the applicable HOTMA provision)*** For rehabilitated housing projects for which development activity has commenced prior to HAP contract execution, but which will undergo development activity after HAP contract execution under 24 CFR 983.157(b), HC shall submit the HAP contract for execution by the owner and then execute the HAP contract;

- ***(Upon implementation of the applicable HOTMA provision)*** For development activity after the HAP contract execution, HC shall amend the HAP contract rider to designate the completed units as available for occupancy, or if the owner has completed all development activity as provided in the rider, HC shall amend the HAP contract to delete the rider; or
- For units that underwent substantial improvement in order to be added to the HAP contract, HC shall amend the HAP contract to add the units to the HAP contract.

23.9 HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

[24 CFR 983.203]

HC shall enter into a HAP contract with an owner for units that are receiving PBV assistance. Each project will be covered by a separate contract, except where HC and the owner agree to place multiple projects, each consisting of a single-family building, under one HAP contract. The HAP contract shall be in the form and include all the content required by HUD.

23.9.1 HAP Contract Execution

[24 CFR 983.204]

HC shall not enter into a HAP contract until each contract unit has been inspected and HC has determined that the unit complies with the inspections standards. For existing housing, the HAP contract shall be executed promptly after HC selects the owner proposal and determines the housing units have met inspection requirements. For newly constructed or rehabilitated housing, the HAP contract shall be executed after HC has inspected the completed units and has determined that the units have been completed in accordance with applicable requirements, HUD's inspection requirements, and any additional requirements specified by the AHAP, and the owner submits all required evidence of completion.

23.9.2 Term of HAP Contract

[24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]

HC may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of HC-owned units, the term of the HAP contract must be agreed upon by HC and the independent entity approved by HUD.

The term of all PBV HAP contracts shall be negotiated with the owner on a case-by-case basis.

HC and the owner may agree at any time before expiration of the HAP contract to execute one or more extensions of the HAP contract term. The following conditions apply:

1. Each extension executed must have a term that does not exceed 20 years;
2. At no time may the total remaining term of the HAP contract, with extensions, exceed 40 years;
3. Before agreeing to an extension, HC must determine that the extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities; and
4. Each extension must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

23.9.3 Termination by HC

[24 CFR 983.205(c) and FR Notice 1/18/17]

The HAP contract will provide that the term of HC's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by HC 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, HC may terminate the HAP contract by notice to the owner.

23.9.4 Non-extension by Owner

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify HC and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

23.9.1 Termination or Expiration Without Extension

Unless a termination or expiration without extension occurs due to a determination of insufficient funding or other extraordinary circumstances determined by HUD, upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher at least 60 calendar days prior to the planned termination or expiration of the PBV HAP contract. However, HC is not required to issue the family a voucher if HC has offered the family an alternative housing option, and the family chooses to accept the alternative housing option instead of the voucher.

Tenant-based assistance does not begin until the owner's required notice period ends. The family may opt to remain in the unit using the tenant-based voucher provided that it meets the requirements of the tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

The owner may not refuse to initially lease the unit to the family except where the owner will use the unit for a purpose other than a residential unit. The owner may not later terminate the tenancy of the family except for the grounds listed under 24 CFR 983.206(b)(4).

23.9.2 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 HC. In this case, families living in the contract units must be offered tenant-based assistance.

23.9.3 Mutual Termination

If HC and the owner agree to terminate the HAP contract prior to the end of the term the owner must give notice to HC in accordance with 24 CFR 983.206(a). In this case, families living in the contract units must be offered tenant-based assistance.

23.9.4 Remedies for Inspections Violations

[24 CFR 983.208(b)]

HC will abate and terminate PBV HAP contracts for non-compliance with inspection standards in accordance with the policies used in the tenant-based voucher program; however, where PBV contracts are concerned, HC may reduce the number of contract units.

A unit is in noncompliance with inspection requirements if:

1. HC or other inspector authorized by the state or local government determines the unit has deficiencies based upon an inspection;
2. HC or the inspector notifies the owner in writing of the unit inspection deficiencies; and
3. The unit inspection deficiencies are not remedied within the required timeframes.

If the deficiency is caused by the tenant, other than any damage resulting from ordinary use, HC may waive the owner's responsibility to remedy the violation. In such a case, housing assistance payments to the owner will not be withheld or abated. However, HC may terminate assistance to a family because of an inspection breach beyond damage resulting from ordinary use caused by any member of the household or any guest or other person under the tenant's control, which may result in removing the unit from the HAP contract. The family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected when required.

In the case of an inspection deficiency caused by fire, natural disaster, or similar extraordinary circumstances, HC may permit the owner to undertake substantial improvement in accordance with 24 CFR 983.212. However, so long as the contract unit with deficiencies is occupied, HC must withhold or abate housing assistance payments and remove units from or terminate the HAP contract as described in this section.

This section does not apply to units unavailable for occupancy in a project undergoing development activity after HAP contract execution. However, in the case of any contract unit with deficiencies that is occupied, HC must withhold or abate housing assistance payments and remove units from or terminate the HAP contract.

Voucher Issuance Due to Inspection Noncompliance

If an owner fails to make repairs when required and the unit is removed from the HAP contract or the HAP contract is terminated, HC will issue a tenant-based voucher to the family whose unit will be removed. A family may elect to remain in the project if the project contains a unit that meets the tenant-based voucher program requirements, with priority given to families who will remain in the same unit if there are insufficient units available to accommodate all families that wish to remain.

The voucher:

1. Must be issued at least 30 days prior to the removal of the unit or termination of the HAP contract; and
2. Be good for at least 90 days or longer as determined by HC is reasonably necessary.

If the family is unable to lease a new unit within the period provided by HC, HC will offer, and if accepted, provide the family a selection preference for an appropriate-size public housing unit that first becomes available for occupancy after the voucher expires.

HC in its sole discretion may assist families relocating under such circumstances in finding a new unit, including using up to two (2) months of the withheld and abated assistance payments for costs directly associated with relocating to a new unit, including security deposits, temporary housing costs, or other reasonable moving costs as determined by HC. If HC uses withheld and abated assistance payments to assist with the family's relocation costs, it will provide security deposit assistance to the family as necessary. HC will not require any amount of such additional assistance to be repaid to HC.

23.9.5 Substitution or Addition of Contract Units

[24 CFR 983.207(c)]

At HC's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, HC shall inspect the proposed unit and determine the reasonable rent for the unit.

HC and the owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without a new proposal selection, provided that the total number of units in the project that will receive PBV assistance will not exceed the limitations in PBV Program Cap or the PBV Project Cap (if applicable), reasonable rent determinations, and compliance with inspection requirements.

If the units to be substituted or added to the HAP contract are occupied:

1. The family occupying the unit must be eligible for assistance,
2. The unit must be the appropriate size for the family under HC's subsidy standards,
3. The family must be selected from the waiting list in accordance with applicable selection policies; and
4. If the unit is occupied by a family assisted under a tenant-based voucher immediately prior to the unit being placed on the PBV HAP contract, the tenant-based HAP contract for the unit must terminate before the unit may be placed under the PBV HAP contract.
    a. The family occupying the unit is not a new admission to the voucher program.
    b. If the family is in the initial term of the tenant-based lease, the family must agree to mutually terminate the tenant-based lease with the owner and enter into a PBV lease.
    c. If the initial term of the tenant-based lease has passed or the end of that term coincides with the time at which the unit will be placed on the PBV HAP contract, upon the owner's decision not to renew or to terminate the tenant-based lease, the family must agree to relinquish then tenant-based voucher and enter into a PBV lease.

23.9.6 Removal of Units from the 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 project is fully assisted, HC may reinstate the unit removed to the HAP contract after the ineligible family vacates the property. If the project is partially assisted, HC may substitute a different unit for the unit removed from the HAP contract when the first eligible substitute becomes available.

23.9.7 Housing Quality and Design Requirements

[24 CFR 983.101(e) and 983.208(a)]

The owner is required to maintain and operate the contract units and premises in accordance with inspections standards, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with HC 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.

HC may identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. HC will specify any special design standards or additional requirements in the invitation for PBV proposals, the AHAP contract and the HAP contract.

23.9.8 Vacancy Payments

[24 CFR 983.352(b)]

At HC's discretion, on a case-by-case basis, the HAP contract may provide for vacancy payments to the owner for up to a 60-day 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 shall not 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).

HC will decide on a case-by-case basis if HC 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.

The owner may be eligible for payment of the contract rent for the vacant unit for a maximum of 60 days. Requests for vacancy payments must be submitted to HC within 60 days of the vacancy in order to be considered. The Housing Specialist is responsible for weighing the factors involved in determining the owner's eligibility for vacancy loss. If the owner's claims are in compliance with the guidelines, the Housing Specialist will process it for payment.

23.10 SELECTION OF PBV PROGRAM PARTICIPANTS

23.10.1 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 HC 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 shall be placed on HC's waiting list. Once the family's continued eligibility is determined, the family must be given an absolute selection preference and HC shall 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.

23.10.2 Organization of the Waiting List

[24 CFR 983.251(c)]

HC will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance. In some cases, sites may be grouped together into one single PBV list. As applicable, the waiting list may establish criteria or preferences for occupancy of particular units. Applicants may find out more information about available waiting lists and the status of those lists on the HC website.

23.10.3 Selection from the Waiting List

[24 CFR 983.251(c)]

Except where noted in the Administrative Plan, the HC's tenant selection procedures for the tenant-based programs apply for units assisted under the PBV Program.

Except for units which are occupied by eligible *in-place* tenants upon the commencement of the project based contract term, when a vacancy exists at a PBV site, HC will notify the next family on the appropriate HC PBV waiting list. HC will inform applicants that if the applicant is interested in residing in the vacant PBV unit that the applicant will not lose their place on the HC's Section 8 waiting list (if applicable) until that person has been leased in the PBV unit.

All applicants indicating interest in the PBV units will be selected by HC in chronological order by preference category if applicable, and prescreened for Section 8 eligibility. Applicants must meet all of HC's applicable eligibility and suitability requirements. HC will refer qualified applicants to the owner for all vacancies. If the HC referrals do not provide the owner with a suitable tenant for the unit within 30 days, the owner may refer a Section 8 eligible individual or family from the owner's waiting list to the PBV waiting list. The referred family must meet the HC's waiting list priority criteria.

For VASH PBV, applicants referred by the VA indicating interest in the PBV units will be prescreened by the HC for Section 8 eligibility and referred to the owner in chronological order.

The owner chooses a tenant for occupancy from the qualified applicants referred by HC based on their written, HC-approved tenant selection policy. HC may place families referred by the PBV owner on its PBV waiting list.

23.10.4 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, HC shall first refer families who require such features to the owner.

23.10.5 Preferences

[24 CFR 983.251(d), FR Notice 11/24/08, Notice PIH 2013-15]

HC will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units).

In addition, HC will provide an absolute selection preference to PBV households who have been terminated from the program due to paying the full rent in their HC-assisted PBV unit for six (6) consecutive months. To be eligible for the preference, the household must continue to reside in the original assisted unit, be in good standing with the owner, and meet all HCV program eligibility and screening requirements. Households who have been previously terminated from the program are subject to re-screening and must meet all program eligibility requirements. If a PBV unit is not available on the HAP contract at the time the household subsequently becomes eligible for assistance then the household will receive a preference for the next available PBV vacancy, or may have their unit substituted onto the contract, once available, if the owner and HC agree to amend the HAP contract to substitute the unit onto the contract. Households terminated from the PBV program for program violations, failure to recertify, or other reasons outside of paying the full contract rent are not eligible to claim this preference.

In addition, HC has established the following selection preference(s), as applicable to particular PBV developments:

- **Referrals From HC-Approved Partnering Organizations:** HC will provide a selection preference for applicants referred to HC by the CoC or other HC-approved partners at PBV sites that require the establishment of a preference for homeless applicants or other special populations and/or where such a preference is required by the individual PBV development's Tenant Selection Plan (TSP), and/or other applicable requirements.
- **Voluntary Services:** HC may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units. HC shall not grant a preference to a person with a specific disability. 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.
- **New City Plaza:** applicants on this waiting list will be ordered according to the following preference(s)/hierarchy:
    1. Elderly households – households in which the head-of-household, co-head, or spouse is age 62 or older.
    2. Non-Elderly, Disabled households – households in which the head-of-household, co-head, or spouses is under age 62 and a person with disabilities.
    3. All other applicants.

    Within each category above, applicants will be ordered by date/time of application.

23.11 SCREENING

[24 CFR 983.251(a) and (b)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. See ELIGIBILITY.

For current 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

23.12 OFFER OF PBV ASSISTANCE

23.12.1 Refusal of Offer

[24 CFR 983.251(e)]

If a family refuses HC's offer of PBV assistance or the owner rejects a family for admission, the family's position on HC's waiting list for TBV assistance is not affected. If an applicant on a PBV site-based waiting list refuses two PBV offers without good cause (see Good Cause Refusal of PBV Units), HC will remove the applicant from that PBV site-based waiting list; however, the applicant will retain their position on all other waiting lists. The applicant may reapply if the applicable SBWL is open; however, the applicant will receive a new date and time of application.

HC shall not take 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;
    - However, HC (or the owner in the case of owner-maintained waiting lists) is not required to open a closed waiting list to place the family on that waiting list.
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the tenant based voucher waiting list based on preference, date, and time of application, or other factors affecting selection under the HC's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

23.12.2 Good Cause Refusal of PBV Units

Applicants may refuse to accept a unit offer for *good cause*. If a good cause for refusal is verified by HC, applicants/tenants may retain their position on the PBV site-based waiting list. There are two types of good cause:

- Situations in which an applicant/tenant is willing to move but is unable to do so at the time of the unit offer (e.g., the applicant/tenant is in the hospital or is serving on a sequestered jury);
- Situations in which the applicant/tenant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc.

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

- Inaccessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, such that accepting the unit offer would require the adult family member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities;

- The family demonstrates to HC's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption;
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on the final application or Lease) or live-in aide necessary to the care of the principal household member;
- The unit is inappropriate for the applicant's/tenant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

HC will require documentation of good cause for unit refusals and will verify all claims of good cause. Good cause refusal policies may also be applied to unit offers related to applicable transfers.

23.12.3 Disapproval by Landlord

[24 CFR 983.251(e)(2)]

If an applicant is deemed ineligible by an owner due to owner-specific criteria, the applicant will be removed from that PBV waiting list, but may remain on other PBV waiting lists and the tenant-based voucher waiting list.

- If a PBV waiting list contains multiple PBV sites, then the applicant may remain on the waiting list if they meet the criteria for other sites within the PBV waiting list.
- If a PBV site contains Low Income Housing Tax Credit (LIHTC) and non-LIHTC units, and an applicant is deemed ineligible solely due to LIHTC requirements, the applicant may remain on the PBV waiting list until a non-LIHTC unit becomes available.

The owner's Tenant Selection Plan at each site will dictate the site-specific screening elements. Owners must retain documentation used to screen and determine suitability and must promptly notify, in writing, any rejected applicant of the grounds for any rejection.

23.12.4 Acceptance of Offer

[24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, HC shall give the family an oral briefing. The briefing shall include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, HC shall provide a briefing packet that explains how it 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, HC shall 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. HC shall refer a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

23.12.5 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.

23.13 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 HC from HC's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on HC's subsidy standards.

23.13.1 Filling Vacancies

[24 CFR 983.254(a)]

The owner must notify HC in writing (mail, fax, or email) within five (5) business days of learning about any vacancy or expected vacancy.

HC will make reasonable efforts to refer families to the owner within a reasonable timeframe of receiving such notice from the owner.

23.13.2 Reduction in HAP Contract Units Due to Vacancies

[24 CFR 983.254(b)]

If any contract units have been vacant for 120 days, HC may 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 amendment to the HAP contract will be effective the first day of the month following the date of the HC's notice.

23.13.3 HC Responsibility

HC does not conduct screening to determine a PBV applicant family's suitability for tenancy. HC 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 NSPIRE inspection or before. HC will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

23.13.4 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.

23.14 OCCUPANCY

23.14.1 Lease

[24 CFR 983.256]

After an applicant has been selected from the waiting list, determined eligible by HC, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

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.

The owner shall ensure the lease is compliant with state and local law. HC will not review the owner's lease for compliance with state or local law.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term.

For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause;
- The tenant terminates the lease;
- The owner and tenant agree to terminate the lease;
- HC terminates the HAP contract;
- HC terminates assistance for the family.

23.14.2 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 HC a copy of all changes.

The owner must notify HC 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 HC and in accordance with the terms of the lease relating to its amendment. HC must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

23.14.3 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. 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.

23.14.4 Tenant Absence from the Unit

[24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by HC 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. HC termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

23.14.5 Continuation of Housing Assistance Payments

[24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

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

23.14.6 Security Deposits

[24 CFR 983.259]

Owners may collect a security deposit that is reasonable and comparable to security deposits collected for similar, unassisted units in the area. HC prohibits security deposits in excess of private market practice or in excess of amounts charged to unassisted tenants.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. HC has no liability or responsibility for payment of any amount owed by the family to the owner.

23.14.7 Overcrowded, Under-Occupied, and Accessible Units

[24 CFR 983.260]

If HC determines that a family is occupying a wrong size unit, based on HC'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, HC shall promptly notify the family and the owner of this determination, and within 60 days of the determination HC shall offer the family the opportunity to receive continued housing assistance in another available unit.

HC will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in an appropriately sized unit in the same building or project;
- PBV assistance in an appropriately sized unit in another project; and
- Tenant-based voucher assistance.

If no continued housing assistance is available: HC shall remove the wrong-sized or accessible unit from the HAP contract to make voucher assistance available to issue the family a tenant-based voucher.

If HC offers the family a tenant-based voucher: HC shall terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by HC) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, HC shall remove the unit from the HAP contract.

If HC 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, HC will terminate the housing assistance payments at the expiration of this 30-day period. HC 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. The family may request and HC may grant one extension not to exceed up to an additional 90 days to accommodate the family's efforts to locate, affordable, safe, and geographically proximate replacement housing.

23.14.8 Family Right to Move

[24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to HC. If the family wishes to move with continued tenant-based assistance, the family must contact HC to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, HC shall 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, HC shall 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.

23.14.9 Emergency Transfers under VAWA

[Notice PIH 2017-08]

Except where special consideration is needed for the PBV program, HC will follow VAWA policies as described in Violence Against Women Act Protections as well as using the Emergency Transfer Plan as the basis for PBV transfers under VAWA.

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one year, HC will provide several options for continued assistance.

HC will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where HC has PBV units. HC will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance or assistance in HC's public housing program. Such a decision will be made by HC based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, HC will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where HC has PBV units. HC will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to HC's public housing program.

23.15 DETERMINING RENT TO OWNER

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 AHAP contract states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

23.15.1 Rent Limits

[24 CFR 983.301]

Except for certain tax credit units, the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by HC, 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.

MTW Policy

MTW Waiver: 9.g. – Increase PBV Rent to Owner

Approval Date: Pending approval of FY 2027 MTW Supplement

Description: Upon approval from HUD, HC will be authorized to increase PBV rent-to-owner amounts consistent with MTW Waiver 2.b.

Any approved PBV rent will remain subject to applicable rent reasonableness requirements and funding availability.

23.15.2 Certain Tax Credit Units

[24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard.

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

23.15.3 Reasonable Rent

[24 CFR 983.301(e) and 983.302(c)(2)]

HC shall determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where HC has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordable with HUD requirements;
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55;
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant.

If HC has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

23.15.4 Use of FMRs, Exception Payment Standards, and Utility Allowances

[24 CFR 983.301(f)]

When determining the initial rent to owner, HC shall use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, HC shall use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, HC may, for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Applicable HUD-approved exception payment standards under the tenant-based voucher program also apply to the project-based voucher program.

23.15.5 Use of Small Area FMRs (SAFMRs)

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If HC adopts this policy, it will apply to all future PBV projects and HC's entire jurisdiction. HC and the owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if HC subsequently changes its policy.

Further, HC may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. HC and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if HC subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

23.15.6 Redetermination of Rent

[24 CFR 983.302]

HC shall redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

Rent Increase

An owner's request for a rent increase must be submitted to HC at least 60 calendar days and no more than 120 calendar days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing. HC will not process or implement any rent increase requests that are not requested timely.

HC 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 NSPIRE. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Where the owner is requesting a rent increase, HC will determine whether the requested increase is reasonable. The owner will be notified of the determination in writing.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where HC has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

Notice of Rent Change

HC will provide the owner with 30 days written notice of any change in the amount of rent to owner.

23.15.7 Rent for HC-Owned Units

MTW Policy

MTW Waiver: 2.d. – Rent Reasonableness Third-Party Requirement

Approval Date: FY 2022

Applicable to: All MTW-assisted households

Description: HC will conduct rent reasonableness on HC-owned, managed and/or controlled units. HCV staff will determine rent reasonableness in accordance with program requirements and assist the family in negotiating the contract rent when the family requests assistance. HCV staff will communicate the results of the rent reasonableness determination to the family and to other applicable HC staff who provide management to the unit.

23.15.8 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 HC, except where HC has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract. However, the rent floor does not apply:

- When correcting errors in calculations in accordance with HUD requirements;

- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to §983.55; or
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.

When Rent Reasonable Determinations Are Required

HC shall redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- HC approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

23.15.9 Effect of Other Subsidy

[24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, HC shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

23.16 PAYMENTS TO OWNER

23.16.1 Housing Assistance Payments

[24 CFR 983.351]

During the term of the HAP contract, HC shall make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments shall be made for each month that a contract unit complies with NSIPRE and is leased to and occupied by an eligible family. The housing assistance payment shall be paid to the owner on or about the first day of the month for which payment is due unless the owner and HC agree on a later date.

Except for discretionary vacancy payments, HC 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).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract.

23.16.2 Vacancy Payments

[24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if HC determines that the vacancy is the owner's fault. If HC determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, HC will notify the landlord of the amount of housing assistance payment that the owner must repay. HC will require the owner to repay the amount owed.

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 HC of the vacancy.

See Vacancy Payments.

23.16.3 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 HC in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HC notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The appropriate utility allowance for a project-based unit is the utility allowance for the size of the dwelling unit actually leased.

The amount of the tenant rent determined by HC 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 HC. The owner must immediately return any excess payment to the tenant.

23.16.4 Tenant and HC 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 HC.

HC is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. HC is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. HC 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.

23.16.5 Meals and Supportive Services

[24 CFR 983.354]

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.

23.16.6 Other Charges by Owner

[24 CFR 983.354]

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

CHAPTER 24: RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

24.1 OVERVIEW

Under the Rental Assistance Demonstration (RAD) and with HUD's approval HC has the authority to convert Public Housing (PH) units to the Project-Based Voucher (PBV) program. Upon conversion to PBV assistance the units and tenants will no longer be subject to the rules and regulations pertaining to HC's PH Program, but rather the RAD PBV rules and regulations as modified by HUD in its regulations and notices related to the RAD program and as reflected in this chapter.

In specific circumstances, the policies under RAD apply differently to households that reside in the PH units prior to the RAD conversion (Conversion Households) and households that move into RAD units after the RAD conversion has taken place (New Households). The policies below will distinguish between the two family types when applicable.

Except as otherwise noted in this chapter, HC policies for the Tenant-Based Voucher Program and Project Based Voucher Program contained in this Administrative Plan also apply to the RAD program and its participants.

This chapter describes HUD regulations and HC policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program. Additionally, this chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

24.2 HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

24.3 APPLICABLE REGULATIONS

On the whole, the regulations for both the standard PBV and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. Additionally, the RAD Statute imposes certain unique requirements and authorizes HUD to establish requirements for converted assistance under the Demonstration. Conversions of public housing properties through RAD, including conversions through a RAD/Section 18 Blend, will be subject to the requirements in Notice PIH 2019-23, REV-4, and as reflected in the RAD PBV HAP Contract. Non-RAD PBV units in a project are also subject to the requirements of Notice PIH 2019-23, REV-4 in the following circumstances:

- Any legacy non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements where noted in Notice PIH 2019-23, REV-4. *Legacy non-RAD PBV units* are defined as PBV assistance in a project that prior to December 31, 2024, replaced public housing at the time of conversion and that are subject to a non-RAD PBV HAP contract.
- When/if HC undertakes a RAD/Section 18 blend, all units are placed under a single RAD HAP contract upon conversion and are governed by the terms of Notice PIH 2019-23, REV-4.

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

The CHAP award letter includes the relevant RAD PIH Notice which governs each RAD conversion. Accordingly, requirements may not be the same for all RAD conversions. Additionally, RAD conversions may also be subject to terms contained in subsequent RAD PIH Notices.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Supplement to properties converting under RAD, provided they do not conflict with RAD requirements.

List of RAD Conversions and effective dates:

Project	HAP Contract Effective Date
Westlake	12/1/2016
Cyprus Park	5/1/2020
Academy Park	5/1/2020
Kearns Mountain View	5/1/2020
Hunter Hollow	5/1/2021
New City Plaza	8/1/2022

24.4 PROJECT SELECTION AND PROJECT OWNERSHIP AND CONTROL

HC will follow all selection and project ownership requirements set forth in HUD regulations and the appliable RAD PIH Notice and applicable successor notices.

24.5 TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE

[24 CFR 983.2]

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HC policies for the tenant-based voucher program contained in this administrative plan also apply to

the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

24.6 RELOCATION REQUIREMENTS

[Notice PIH 2016-17]

In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return.

Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents will be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Where a RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year, HC will prepare a written relocation plan.

HC will undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either:

- A unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or
- A unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.

Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

If HC's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. HC will alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.

Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

- Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
- The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;

- Income limit eligibility requirements associated with the LIHTC program or another program; and
- Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.

Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a HC's or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In consent to a voluntary permanent relocation in lieu of returning to the development.

In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, HC may treat multiple converted developments on the same site as one for purposes of right to return. Should HC seek to have the resident exercise the right to return at a future phase, HC will secure the resident's consent in writing.

Alternative housing options may involve a variety of housing options, including but not limited to:

- Transfers to public housing
- Admission to other affordable housing properties subject to the applicable program rules
- Housing choice voucher (HCV) assistance
- Homeownership programs subject to the applicable program rules
- Other options identified by the PHA

24.7 EQUAL OPPORTUNITY REQUIREMENTS

[24 CFR 983.8; 24 CFR 5.105; Notice PIH 2016-17]

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated.

24.8 RAD PBV PROJECT SELECTION

Unlike in the standard PBV program where the PHA selects the property through either an owner proposal selection process or noncompetitively in accordance with 24 CFR 983.51 or an approved MTW waiver, projects selected for assistance under RAD PBV or a RAD/Section 18 blend are selected in accordance with the provisions in Notice PIH 2019-23, REV-4. Therefore, 24 CFR 983.51 does not apply.

24.8.1 Ownership and Control

[Notice PIH 2019-23, REV-4]

Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the HC cannot execute a contract with itself). To avoid this situation, HC may either:

- Transfer the ownership of the project to an HC nonprofit affiliate or instrumentality (including to a "single-purpose entity" that owns nothing other than the property, which will typically be a requirement of a lender or investor), or
- HC may form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between HC (as the contract administrator) and the HC's related entity (as the owner for HAP contract purposes).

Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that HC or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by HC or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate:

- Holds a fee simple interest in the property;
- Is the lessor under a ground lease with the property owner;
- Has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units,
- Owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable;
- Owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD;
- Owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or
- Demonstrates other ownership and control arrangements approved by HUD.

Control may be established through the terms of the project owner's governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

24.8.2 Subsidy Layering Requirements

[Notice PIH 2019-23, REV-4]

Where RAD conversions result in HC no longer having ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects though the conversion. However, HC will estimate and plan for outstanding liabilities and costs and will follow Notice PIH 2016-23 or successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing.

Where HC will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, HC will be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

Following execution of the HAP contract, HC is authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, HC may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

24.8.3 PBV Percentage Limitation

[Notice PIH 2019-23, REV-4]

Covered projects do not count against the maximum amount of assistance HC may utilize for the PBV program (see PBV Program Cap).

The number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a covered project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percent of vouchers that may be project-based by HC.

24.8.4 Unit Cap Limitation

[Notice PIH 2019-23, REV-4]

There is no cap on the number of units that may receive RAD PBV assistance in each project. Under 24 CFR 983.54(c)(3), units excluded under 24 CFR 983.59 that were previously subject to federally required rent restrictions or received one of the listed forms of HUD assistance do not count toward the project cap. For any RAD PBV and legacy Non-RAD PBV units in projects not already excluded under 24 CFR 983.59, including transfers of assistance to a new location, HUD waived section 8(o)(13)(D) of the Act, as well as related provisions of 24 CFR 983.54. Accordingly, units under a RAD PBV HAP contract may not be "excepted" for a specified purpose.

24.8.5 Site Selection Standards

[Notice PIH 2019-23, REV-4; Notice PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.55 apply to RAD PBV, with the exception of 983.55(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

To facilitate the uniform treatment of residents and units, any legacy non-RAD PBV units located in the same project are subject to the terms of this provision.

HUD will conduct a front-end civil rights review of an HC's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

HC will ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

24.8.6 Environmental Review

[Notice PIH 2019-23, REV-4; Environmental Review Requirements for RAD Conversions, March 2019]

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents will be submitted no later than the applicant's financing plan.

HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2019-23, REV-4. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.

24.9 DWELLING UNITS & INSPECTIONS STANDARDS

[24 CFR 983.101]

This part identifies the special inspections standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for NSPIRE inspections.

24.9.1 Accessible Units

Federal accessibility requirements apply to all conversions including new construction, alteration, or existing facilities including Section 504 of the Rehabilitation Act of 1973 (Section 504), the Fair Housing Act (FHA), and the Americans with Disabilities Act (ADA).

When a project's rehabilitation meets the definition of a "substantial alteration" under 24 CFR Part 8.23, the project must comply with all applicable accessibility requirements under Section 504. For some projects, "other alterations," as defined in Section 504, are made over time. If other alterations, considered together, amount to an alteration of an entire dwelling unit, the entire dwelling unit shall be made accessible.

When HC uses RAD conversion in conjunction with new construction, the project must comply with all applicable accessibility requirements for new construction. The specific requirements are set out in regulations at 24 CFR part 8, 28 CFR part 35 and 36, and 24 CFR part 100, subpart D. Information on the design and construction requirements of the Fair Housing Act that are applicable to new construction is found at www.fairhousingfirst.org. Wherever possible, HC will use universal design principles, visibility principles, and active design guidelines in planning retrofit and new construction work. However, adherence to universal design principles will not replace compliance with the accessibility requirements of Section 504, the ADA, and the Fair Housing Act.

See PBV policies on Accessibility for People with Disabilities.

24.9.2 Inspections Standards

[24 CFR 983.101]

The NSPIRE standards for the tenant-based program generally apply to the PBV program. NSPIRE requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

See the INSPECTIONS chapter and Inspecting Units section of the PBV chapter.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

24.9.3 Lead-Based Paint

[24 CFR 983.101(c); Notice PIH 2019-23, REV-4]

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.

24.9.4 Inspecting Units

The following are the inspection types which apply to RAD units:

- **Initial Inspection**
  RAD Quick Reference Guide; Notice PIH 2019-23, and Notice PIH 2023-19, REV-4

  Under standard PBV regulations at 24 CFR 983.103(b), HC may not enter into a HAP contract until HC has determined all units comply with housing quality standards. It is the responsibility of the contract administrator to perform this initial inspection (see also Inspecting HC-Owned Units). In order to accommodate projects in which repairs are conducted, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet housing quality standards by the date indicated in the RAD Conversion Commitment (RCC).

  To place the unit under HAP contract and commence making payments, HC may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP contract instead of conducting an initial inspection. During the period of the work, housing quality standards requirements apply. HC must enforce the project owner's obligations and conduct inspections when needed, (for example in response to tenant complaints or other information coming to its attention), and the owner must correct any deficiencies in accordance with NSIPRE requirements (i.e., no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any HC-approved extension for other defects, but no later than the date of the completion of the work as indicated in the RCC).

- **Turnover Inspections**
  24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20

  See PBV policies on Turnover Inspections.

- **Biennial Inspections**
  24 CFR 983.103(d); FR Notice 6/25/14

See PBV policies on Biennial Inspections.

- **Alternative Inspections**
  24 CFR 983.103(g); Notice PIH 2016-05

  In the case of mixed-finance properties that are subject to alternative inspections, HC may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

- **Other Inspections**
  24 CFR 983.103(e)

  See Other Inspections.

- **Inspecting HC-Owned Units**
  24 CFR 983.103(f); Notice PIH 2017-21

  See Inspecting HC-Owned Units.

24.10 HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

24.10.1 Overview

[RAD PBV Quick Reference Guide 6/20]

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Except for transfers of assistance, the RAD PBV HAP contract takes effect before any work begins. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with HC who will administer the PBV assistance. Units assisted under a RAD PBV HAP contract will be subject to long-term, renewable use and affordability restrictions.

24.10.2 HAP Contract Requirements

[RAD PBV Quick Reference Guide 6/20; Notice PIH 2019-23, REV-4]

Contract Information

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

Agreement to Enter into a Housing Assistance Payment Agreement (AHAP) Waiver

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including

regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

Execution and Effective Date of the HAP Contract

When the conditions of the CHAP and the RCC are met and the conversion has closed, HC will execute the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

Term of HAP Contract

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency.

After the expiration of a 20-year initial term of the HAP contract, the HAP contract must be renewed on a form approved by HUD, which must include language that requires rents to be re-determined in accordance with 24 CFR 983.301 and 983.302. If the RAD PBV HAP contract was renewed or extended prior to the 20th year after conversion, then starting with the 20th year after execution of the original RAD PBV HAP contract, contract rents shall be redetermined in accordance with 24 CFR 983.302 or successor regulation [Notice PIH 2025-03].

Mandatory Renewal Term for RAD PBV HAP Contract

Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to HC and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. Consequently, 24 CFR 983.205(b), governing HC discretion to renew the contract, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

Remedies for Inspections Violations

[24 CFR 983.208(b)]

HC may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with NSPIRE. If HC determines that a contract unit does not comply with NSPIRE, HC 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.

24.10.3 Amendments to the HAP Contract

[Notice PIH 2019-23, REV-4]

Floating Units

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If HC chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

Floating units are subject to all of the requirements in this chapter, the PBV regulations and PBV policies, including physical inspections, rent adjustments and income-mixing requirements.

Reduction in HAP Contract Units

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

HC may not reduce the number of assisted units without written HUD approval. Any HUD approval of HC's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HC will reinstate the unit after the family has vacated the property. If the project is partially assisted, HC may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

24.10.4 HAP Contract Year and Anniversary Dates

[Notice PIH 2019-23, REV-4]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

24.10.5 Owner Responsibilities under the HAP Contract

[24 CFR 983.210]

When the owner executes the HAP contract, he or she certifies that at such execution and at all times during the term of the HAP contract:

1. All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with NSPIRE;
2. The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;
3. Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;

4. 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;
5. 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;
6. The amount of the HAP the owner is receiving is correct under the HAP contract;
7. The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
8. 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;
9. The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
10. Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

24.10.6 Vacancy Payments

[24 CFR 983.352(b)]

At the discretion of HC, the HAP contract may provide for vacancy payments to the owner for an HC-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 HC 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.

24.11 SELECTION OF RAD PBV PROGRAM PARTICIPANTS

24.11.1 Overview

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

24.11.2 Returning Conversion Households

Conversion Households that were relocated from their PH unit due to the RAD conversion will be permitted to return in accordance with the RAD Relocation Plan for their project. The RAD Relocation Plan will include criteria used to determine the priority for Conversion Households to re-occupy units at the project after rehabilitation, demolition, and/or construction is completed. For example, if units come online in stages, the plan will outline how HC will determine when each Conversion Household will return to the project.

24.11.3 Organization of the Waiting List

[24 CFR 983.251(c); Notice PIH 2019-23, REV-4]

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. Any legacy non-RAD PBV units located in the same project are also subject to these requirements.

HC may establish and manage separate waiting lists for groups of projects or buildings that are receiving RAD PBV assistance.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, HC will consider transferring such household, consistent with program requirements for administration of waiting lists, to HC's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

HC will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv).

HC will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with APPENDIX A: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING.

24.11.4 Transfer of the Waiting List

Upon conversion, HC will transfer the current applicants for the RAD converted PH units to a site-based waiting list for the RAD PBV units only. HC reserves the right to establish new preferences for the RAD site-based waiting list. Households on the prior waiting list will automatically be placed on the site-based waiting list for the RAD PBV units based on their original date and time of application.

For transfer of assistance RAD units, HC will create a new waiting list for the RAD site and provide public notice on how to apply to the waiting list. HC has the authority to establish preferences for the new RAD site-based waiting list.

24.11.5 Selection from the Waiting List

[24 CFR 983.251(c)]

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from HC's waiting list. HC may establish selection criteria or preferences for occupancy of particular PBV units.

24.11.6 Income Targeting

[24 CFR 983.251(c)(6); Notice PIH 2019-23, REV-4]

At least 75 percent of the families admitted to HC's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any legacy non-RAD PBV units located in the same project are also subject to these requirements.

24.11.7 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, HC will first refer families who require such features to the owner.

24.11.8 Preferences

[24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23, REV-4]

See Preferences section of the PBV chapter.

Additionally, a local preference will be implemented for households on the RAD waiting list and an occupancy standard change will be implemented for RAD units to allow a variety of households to be housed who would normally be excluded; specifically, to allow a 2-person (parent/child) household to be housed and to allow flexibility regarding the occupancy requirement for a 4 bedroom unit to ensure full utilization of the unit.

HC will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with APPENDIX A: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING.

24.12 SCREENING

24.12.1 Prohibited Rescreening of Conversion Households

[Notice PIH 2019-23, REV-4]

Conversion households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, conversion households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23, REV-4 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for conversion households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in legacy non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all

requirements of the applicable program, specifically 24 CFR 983 for legacy non-RAD PBV. Any legacy non-RAD PBV units located in the same project are also subject to the right to return.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

24.12.2 Screening of Tenants after Conversion

[24 CFR 983.251(a) and (b)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. HC will determine an applicant family's eligibility for the RAD PBV program in accordance with the ELIGIBILITY policies in this Plan.

24.13 OFFER OF PBV ASSISTANCE

See PBV policies on Offer of PBV Assistance.

24.14 LEASING

See PBV policies on Leasing.

24.15 OCCUPANCY

After an applicant has been selected from the waiting list, determined eligible by HC, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

24.15.1 Lease

[24 CFR 983.256]

The tenant must have legal capacity to enter into a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

24.15.2 Lease Requirements

[24 CFR 983.256(c); Notice PIH 2019-23, REV-4]

The lease for a PBV unit must specify all of the following information:

1. The names of the owner and the tenant;
2. The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
3. The term of the lease (initial term and any provision for renewal);
4. The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
5. A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and

6. The amount of any charges for food, furniture, or supportive services.
7. For any family admitted following conversion, the lease will specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease. HC will include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

The lease terms and provisions, including all addenda and referenced documents such as House Rules, must:

1. Be reasonable, use plain language, and must not contain provisions that conflict with resident rights described in Notice PIH 2025-03 or requirements of the PBV program.
2. Be available in multiple languages as needed and written in a manner accessible to people with disabilities.
3. For any residences that qualify as "target housing" under 42 U.S.C. 4851b, comply with the Lead Disclosure Rule, as codified in 24 CFR part 35, subpart A.
4. The lease must not:
    a) Require a new security deposit for residents in-place at the time of conversion,
    b) Prohibit residents' pets in-place at the time of conversion.
    c) Be onerous or difficult for residents to understand and should not impose overly restrictive rules about what residents may or may not do in their homes.

24.15.3 Initial Term and Lease Renewal

[24 CFR 983.256(f); RAD PBV Quick Reference Guide 6/20]

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term will be for at least one year. The lease will provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

1. The owner terminates the lease for good cause
2. The tenant terminates the lease
3. The owner and tenant agree to terminate the lease
4. The PHA terminates the HAP contract
5. The PHA terminates assistance for the family

24.15.4 Changes in the Lease

[24 CFR 983.256(e)]

See PBV policies on Changes in the Lease.

24.15.5 Tenancy Addendum

[24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

1. The program tenancy requirements
2. The composition of the household as approved by HC (the names of family members and any HC-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.

24.15.6 Security Deposit

[24 CFR 983.259; *RAD PBV Quick Reference Guide* 6/20]

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise the security deposit requirements for standard PBV apply. If tenants in-place at RAD conversion have not previously been required to provide a security deposit, the owner cannot require a security deposit to be collected.

24.15.7 Owner Termination of Tenancy

[24 CFR 983.257; Notice PIH 2019-23, REV-4]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program. In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights will be included in the owner's lease as well as the HC's administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction the termination procedure for RAD conversions to PBV will require that HC provide adequate written notice of termination of the lease, which may not be less than:

1. A reasonable period of time, but not to exceed 30 days:
    a) If the health or safety of other tenants, HC employees, or persons residing in the immediate vicinity of the premises is threatened; or
    b) In the event of any drug-related or violent criminal activity or any felony conviction
2. Not less than 14 days in the case of nonpayment of rent
3. Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

These provisions apply to legacy non-RAD PBV units located in the project as well.

24.15.8 Tenant Notification of Termination

The family may terminate the assisted lease at any time after the first year of occupancy. The family must give the owner advance written notice of intent to vacate in accordance with the lease. Before providing notice to terminate the lease, a family must contact HC to request comparable tenant-based rental assistance if the family wishes to move with continued assistance. If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.

24.15.9 Tenant Absence from the Unit

See PBV policies on Tenant Absence from the Unit.

24.15.10 Continuation of Housing Assistance Payments

[24 CFR 983.258; Notice PIH 2019-23, REV-4; Notice PIH 2023-19; RAD PBV Quick Reference Guide 6/20]

Pre-Conversion Residents

The unit for a family with a TTP that equals or exceeds the gross rent (which is defined as the contract rent plus any utility allowance for the unit) must be placed on the PBV HAP contract and the family must be admitted to the PBV program. In this case, and until such time as the family's TTP falls below the gross rent, the family will pay the owner the alternate rent which is defined as the lesser of:

1. The family's TTP minus the utility allowance (subject to any required phase-in); or
2. The Zero HAP Rent Cap, which is the lower of:
    a) 110 percent of the applicable FMR minus the utility allowance; or
    b) In the event the units are subject to more restrictive rent setting requirement under the LIHTC or HOME programs (or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements.

The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance in which case normal PBV rent requirements will apply to the family. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the NSPIRE standards, apply as long as the unit is under HAP contract or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

After a family has paid the Zero HAP Rent Cap for a period of 180 days, HC must remove the unit from the HAP Contract and the family's participation in the PBV program ends. If the Covered Project is fully assisted and the family subsequently leaves the property, HC must reinstate the unit back onto the HAP contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP contract unless HC previously substituted a different unit on the HAP contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted.

Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP contract, the family may request to return to the PBV program if the family's income subsequently

decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap, and the family is otherwise eligible for PBV assistance. HC must, at the earliest opportunity, reinstate the family's unit back onto the HAP contract to provide rental assistance to the family. If the project was partially assisted and HC previously substituted a different unit on the HAP contract, HC must substitute the family's unit for a vacant unit on the HAP contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP contract becomes vacant if there are no vacant units on the HAP contract at the time of the family request.

New Admission Families

Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. This means a family's TTP may not equal or exceed the gross rent for the unit at admission. HC may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if HC has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, HC must remove the unit from the HAP contract. If the project is fully assisted and the family subsequently leaves the property, HC must reinstate the unit after the family has vacated the property and admit an eligible family. If the project is partially assisted, HC may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207 or where floating units have been permitted.

Per the RAD Use Agreement, the owner may charge the family a rent that does not exceed 30 percent of 80 percent of the area median income. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent. A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

In circumstances where low RAD PBV rents may prohibit a significant number of otherwise eligible families on the waiting list from being admitted to the project because they do not require subsidy, and which could consequently create an undue concentration of poverty at the project compared to legacy non-RAD PBV projects, HC may request a waiver from HUD for the covered project. The waiver will apply the alternative requirements applicable to the pre-conversion residents to new admission families.

24.15.11 Reexaminations

A family living in a unit converted from public housing to RAD PBV may retain its recertification date. Unless a family's regular reexamination is due at the same time as the effective date of the RAD PBV HAP contract, HC does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-

50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

24.16 MOVES

24.16.1 Overcrowded, Under-Occupied, and Accessible Units

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any legacy non-RAD PBV units located in the same project are also subject to these requirements.

Following conversion, the standard PBV regulations apply. See PBV policies on Overcrowded, Under-Occupied, and Accessible Units.

24.16.2 Family Right to Move

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 HC.

24.16.3 Choice Mobility

If the family wishes to move with continued tenant-based assistance, the family must contact HC to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, HC will offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, HC will 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.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

HC will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

24.16.4 Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by HC exceeds 20 percent of HC's authorized units under its HCV ACC with HUD, HC may establish a turnover cap. HC is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If HC chooses to establish a turnover cap and the cap is implemented, HC will create and maintain a waiting list in the order requests from eligible households were received.

If HC implements a turnover cap and families who requested a choice mobility voucher were denied due to the cap, the families will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

24.16.5 Emergency Transfers under VAWA

See PBV policies on Emergency Transfer Under VAWA.

24.17 RESIDENTS' PROCEDURAL RIGHTS

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to legacy non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction, the termination procedure for RAD conversions to PBV requires that HC provide adequate written notice of termination of the lease, which is:

1. A reasonable period of time, but not to exceed 30 days:
    a) If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
    b) In the event of any drug-related or violent criminal activity or any felony conviction.
2. Not less than 14 days in the case of nonpayment of rent
3. Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply.

24.18 INFORMAL HEARINGS

[Notice PIH 2019-23, REV-4]

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v) (see also Informal Hearings), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

1. For any hearing required under 24 CFR 982.555(a)(1)(i)–(v), the contract administrator will perform the hearing in accordance with the INFORMAL REVIEWS AND HEARINGS policies in this Plan, as is the current standard in the program.
2. For any additional hearings required under RAD, HC (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving HC (as owner) or contract administrator. This hearing requirement does not apply to and is not

intended as a forum for initiating or negotiating policy changes between a group or groups of residents and HC (as owner) or contract administrator.

The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v).

The owner must provide an opportunity for an informal hearing before an eviction.

24.19 DETERMINING CONTRACT RENT

24.19.1 Initial Contract Rents

[Notice PIH 2019-23, REV-4]

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. For RAD/Section 18 blends, HUD produces a single, blended rent schedule for all units.

HC may adjust subsidy (and contract rents) across multiple projects as long as HC does not exceed the aggregate subsidy for all of the projects HC has submitted for conversion under RAD.

Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contract rent, the initial rents are set at the lower of:

1. An amount determined by HC, not to exceed 110 percent of the fair market rent (FMR) or any exception payment standard approved by HUD, minus any utility allowance.
2. The reasonable rent
3. The rent requested by the owner

Rents in RAD/Section 18 Blends

[Notice PIH 2019-23, REV-4]

HUD will produce a single, blended rent schedule for all units resulting from a RAD/Section 18 Blend. The rent schedule will be calculated as the unit-weighted average contract rent by bedroom of:

- The converting Public Housing assistance using the RAD rents based on their "RAD rent base year" described in Attachment 1C of Notice PIH 2019-23, REV-4; and
- The Converting TPV assistance using the lower of 110% of the applicable FMR (or approved exception payment standard) minus any utility allowance or the reasonable rent.

The initial contract rent in a RAD/Section 18 Blend can use any of the flexibilities referenced in Notice PIH 2019-23, REV-4.

24.19.2 Adjusting Contract Rents

RAD PBV contract rents are adjusted differently than contract rents in the standard PBV program. At each annual anniversary of the HAP contract, contract rents will be adjusted only by HUD's operating cost adjustment factor (OCAF) that is applied to the current contract rent, less the portion of the rent paid for debt service, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

1. To correct errors in calculations in accordance with HUD requirements
2. If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
3. If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

1. The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the Federal Register; or
2. The reasonable rent

HC (or an independent entity, if required) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.

The owner shall request a contract rent adjustment from HC within 120 days, but no less than 60 days, prior to the HAP contract anniversary date. Properties are eligible to receive prior years' OCAF adjustments for years in which the OCAF was not taken. The OCAF must be applied retroactively if it was missed. HC (or the independent entity, if required) must make sure that all OCAFs have been applied correctly since the RAD closing and calculate the current rents accordingly, including making sure that the RAD PBV contract rents do not exceed the PBV program caps.

In extraordinary circumstances, a project owner may request a waiver of the rental adjustment by OCAF and receive a rental adjustment by an alternative operating cost factor. The waiver request with documentation demonstrating the need for an alternative operating cost factor rental adjustment must be submitted to the Office of Recapitalization in accordance with Supplemental Notice 4C.

24.19.3 Reasonable Rent

See PBV policies on Reasonable Rent

HC-Owned Units

See PBV policies on Reasonable Rent – Rent for HC Owned Units.

24.20 UTILITY ALLOWANCES

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, HC may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

After conversion, HC will apply the Alternative Utility Allowance Schedule to all RAD sites.

HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to legacy non-RAD PBV units in the project and is calculated consistent with Notice H 2015-04.

24.21 PAYMENTS TO OWNERS

24.21.1 Housing Assistance Payments

See PBV policies on Payments to Owner.

24.21.2 Vacancy Payments

At the discretion of HC, the HAP contract may provide for vacancy payments to the owner. Such a stipulation will be included in the HAP contract.

See PBV policies on Vacancy Payments.

24.21.3 Tenant Rent to Owner

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by HC in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HC 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 HC 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 HC. The owner must immediately return any excess payment to the tenant.

24.21.4 Initial Certifications

For the initial certification, HC will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. HC will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, HC will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

24.21.5 Tenant and HC Responsibilities

See PBV policies on Tenant and HC Responsibilities.

24.21.6 Phase-in of Tenant Rent Increases

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or $25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for the phase-in of tenant rent increases.

HC will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. HC will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or $25 purely as a result of the conversion as follows:

1. Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP or flat rent and the calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)
2. Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): 50 percent of the difference between the most recently paid TTP or flat rent and the calculated PBV TTP
3. Year 3: Year 3 AR and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP or flat rent, the phase-in ends, and tenants will pay full TTP from that point forward.

HC will communicate HC's phase-in policy in writing to the family at the time HC first determines that the family qualifies for a rent phase-in. Any legacy non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

24.21.7 Other Fees and Charges

Meals and Supportive Services

See PBV policies on Meals and Supportive Services.

Other Charges by Owner

See PBV policies on Other Charges by Owner.

24.22 OTHER RAD REQUIREMENTS

24.22.1 Davis-Bacon

The Davis-Bacon prevailing wage requirements (prevailing wages, the Contract Work Hours and Safety Standards Act, and other related regulations, rules, and requirements) apply to all initial repairs and new construction that are identified in a project's financing plan to the extent that such repairs or construction qualify as development. "Development," as applied to work subject to Davis-Bacon requirements on Section 8 projects, encompasses work that constitutes remodeling that alters the nature or type of housing units in a PBV project, reconstruction, or a substantial improvement in the quality or kind of original

equipment and materials, and is initiated within 18 months of the HAP contract. Development activity does not include replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind. Davis-Bacon requirements apply only to projects with nine or more assisted units.

24.22.2 Section 3 of the Housing and Urban Development Act of 1968 (Section 3)

Section 3 (24 CFR Part 135) applies to all initial repairs and new constructions that are identified in the project's financing plan to the extent that such repairs qualify as construction or rehabilitation. In addition, Section 3 may apply to the project after conversion based on the receipt of the use of federal financial assistance for rehabilitation activities.

24.22.3 Future Refinancing and Insurance

Owners must receive HUD approval for any refinancing or restructuring of permanent debt during the HAP contract term, to ensure the financing is consistent with long-term preservation.

24.22.4 Public Housing FSS and ROSS Participants

[Notice PIH 2019-23, REV-4]

Current public housing FSS participants must be allowed to continue to participate in HC's FSS program for the duration of the grant's period of performance, and HC will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding opportunity (NOFO) to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. HC will convert the PH FSS program participants at the covered project to their HCV FSS program. No special provisions are required to continue serving FSS participants that live in public housing units converting to PBV through RAD.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, HC will follow the normal closeout procedures outlined in the grant agreement and any applicable 24 CFR part 200 requirements. If HC continues to run an FSS program that serves PH and/or HCV participants, HC will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. On March 9, 2024, the Consolidated Appropriations Act, 2024 (Public Law 118-42), extended eligibility by allowing PHAs to continue to serve (or restart service to) residents of a project with assistance converted from public housing to Rental Assistance Demonstration (RAD) Project-based Voucher (PBV) or RAD Project-based Rental Assistance (PBRA).

Any non-RAD PBV units located in the same project are also subject to these requirements.

24.22.5 Resident Participation and Funding

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

CHAPTER 25: SPECIAL PURPOSE VOUCHERS

Special purpose vouchers (SPVs) are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. HC currently administers the following types of special purpose vouchers:

- Family Unification Program (FUP)
- Foster Youth to Independence Initiative (FYI)
- Veterans Affairs Supportive Housing (VASH)
- Mainstream Voucher Program
- Non-Elderly Disabled (NED)

25.1 FAMILY UNIFICATION PROGRAM (FUP)

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. Vouchers are provided to two different populations—FUP families and FUP youth. Eligibility criteria and other program criteria may differ according to whether the household is a FUP family or FUP Youth, as described in the sections below.

HC is currently allocated 284 total FUP vouchers, of which 30 are set-aside for FUP Youth, as available, according to the criteria described in the sections below. If no FUP Youth referrals are available or provided to HC then HC may utilize the set-aside FUP Youth voucher for a FUP family.

25.1.1 Public Child Welfare Agency (PCWA)

Families and youth do not apply directly to HC for FUP vouchers. They are instead referred by a PCWA with whom HC has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements and then refers those families or youths to HC.

HC has entered into a MOU with the Utah Department of Child Family Services (DCFS) and the Continuum of Care (CoC) to identify and assist eligible families. The MOU describes the coordination responsibilities between Housing Connect, DCFS, and the CoC to implement FUP.

Supportive Services

DCFS and the CoC must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age.

DCFS and the CoC will provide supportive services for all FUP youth for a period of 36 months.

A FUP-eligible youth is not required to participate in supportive services as condition of receipt of the FUP voucher.

25.1.2 FUP Family Voucher Eligibility Criteria

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

Lack of adequate housing means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
    - Does not have operable indoor plumbing
    - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
    - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
    - Does not have electricity, or has inadequate or unsafe electrical service
    - Does not have a safe or adequate source of heat
    - Should, but does not, have a kitchen
    - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
    - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability
- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
    - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
    - The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
    - For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the HC's SUBSIDY STANDARDS.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent.

25.1.3 FUP Youth Voucher Eligibility Criteria

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday);
    - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 180 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
    - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
    - *At risk of being homeless* is fully defined at 24 CFR 576.2.
        - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
        - Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below 30 percent of area median income; and
- Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

Note: An eligible youth who is leaving foster care may lease a unit with a FUP voucher prior to officially leaving foster care, as long as all requirements of the FUP program and HCV program, including the prohibition on duplicate subsidy, are met. While a youth may be referred for a FUP voucher before reaching the age of 18, HC will not enter into a HAP contract on behalf of a youth until they have reached the age of 18.

25.1.4 Assistance Period

[FR Notice 1/24/22]

Maximum Assistance Period

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher

must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance.

Extension of Assistance

FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below). FUP youth participants who have previously rejected offers to participate in FSS will be given a final opportunity to participate in FSS prior to the expiration of their 36-month term. If the participant does not accept HC's final offer to participate in FSS then they will not be approved for an extension of assistance (unless the youth meets one of the statutory exceptions described below).

Statutory Exceptions

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the HC's FSS program if they certify that they meet one of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.
- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities due to a documented medical condition.
- The youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.
    - Youth must be enrolled in education activities on at least a half-time basis, as defined by the institution that they attend. However, HC may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.
    - The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).
- The youth was employed.
    - HC will consider the youth to be employed if they work a minimum of 20 hours per week. HC may make exceptions to this requirement if the youth's hours are reduced due

to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

Termination of Assistance for Failure to Meet Conditions

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the regular reexam.

If the FUP youth does not meet any of the conditions described in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, HC will offer the FUP youth the opportunity to request an informal hearing, in accordance with its policies.

25.1.5 Referrals And Waiting List Management

As part of the MOU, HC and the PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the HC liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide HC with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

HC will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

HC must serve any referrals (youths or families) that meet all program eligibility requirements. If HC determines that it has received a sufficient number of referrals from the PCWA so that HC will be able to lease all FUP vouchers awarded, HC may request that the PCWA suspend transmission of referrals. If HC determines that additional referrals will be needed after it has made such a request, HC may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

Waiting List Placement

[**Notice PIH 2025-08]**

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

Once a referral is made, HC shall compare the list of PCWA referrals to its waiting list to determine if any applicants on the PCWA's referral list are already on HC's waiting list. Applicants already on the HC's waiting list retain the order of their position on the list. Applicants not already on the HC's waiting list shall be placed on the HCV waiting list.

HC may place applicants on its HCV waiting list or may choose to establish a separate waiting list for FUP/FYI applicants.

- If HC uses the HCV waiting list for FUP/FYI applicants:
    - If HC's HCV waiting list is closed, HC shall open its HCV waiting list in order to accept new FUP applicants. If necessary, HC may open its waiting list solely for FUP applicants, and this information shall be included in HC's notice of opening its waiting list.
- If HC opts to establish a separate waiting list for FUP/FYI applicants (pursuant to PIH Notice 2025-08):
    - HC may establish separate preferences for these applicants (other than a residency preference) as long as the system of local preferences and processes for accepting referrals from partners does not violate nondiscrimination requirements under any applicable federal civil rights law.
    - In addition to placing eligible FUP/FYI applicants on the FUP/FYI waiting list, HC shall also place these applicants on the HCV waiting list, if they are not already.
    - HC shall also inform all applicants on the HCV waiting list about the new list and provide an opportunity to be placed on it, provided they meet eligibility criteria.
    - Applicants issued a FYI voucher may remain on the general HCV waiting list.

Waiting List Selection

HC selects FUP-eligible families or youths based on HC's regular HCV waiting list selection policies in APPLICATION, WAITING LIST, & TENANT SELECTION, including any preferences that may apply. However, HC shall not apply a residency preference to FUP vouchers.

25.1.6 HCV Eligibility Determination

Once a FUP-eligible family or youth is selected from the HCV waiting list, HC must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in ELIGIBILITY.

The PCWA may, but is not obligated to, provide information to HC on the family's criminal history.

Additional FUP Eligibility Factors

[FUP FAQs]

For FUP family vouchers, the family must remain FUP-eligible through lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, HC discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before HC discovers that the reunification will not happen, but the family has not yet leased up under the voucher, HC must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

Any applicant that does not meet the eligibility criteria for the HCV program listed in ELIGIBILITY or any eligibility criteria listed in this section will be notified by HC in writing following the policies in Denial of Assistance, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

25.1.7 Voucher Issuance

[FR Notice 1/24/22, Notice PIH 2025-08]

Eligible applicants will be notified by HC in writing following the policies in Notice of Eligibility. FUP families will attend a standard HCV briefing in accordance with BRIEFINGS & VOUCHER ISSUANCE. FUP youth will be briefed individually. In addition to traditional HCV program requirements HC will inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list; and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

For both FUP youth and FUP families, the term of the initial voucher will be 120 days (note: the initial 120-day search term also applies when a FUP family or youth chooses to move to a new unit with continued assistance inside or outside HC's jurisdiction).

When issuing a FUP voucher to a family which includes an individual with disabilities, HC shall include a current listing of available accessible units known HC, and if necessary, otherwise assist the family in locating an available accessible dwelling unit.

Extensions

HC will accept verbal or written requests for voucher extensions as long as the request is made on or before the expiration date of the voucher. HC will provide at minimum one 90-day extension and will not restrict approval of the initial extension to certain circumstances or require documentation from applicants. All subsequent requests for extension shall be processed in accordance with HC's voucher extension policies. This policy shall apply to both initial applicants as well as participants moving with continued assistance.

For applicants, on at least one occasion after voucher issuance, HC shall notify the applicant to remind them of the expiration date of the voucher and the process for requesting an extension of the initial term, and to inquire if the applicant is in need of assistance with their housing search.

25.1.8 Lease Up

Once the family or youth locate a unit, HC conducts all other processes relating to voucher administration per HCV program regulations and HC's policies (including, but not limited to: NSPIRE inspections, determination of rent reasonableness, etc.).

25.1.9 Termination Of Assistance

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on PHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

FUP Family Vouchers

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, HC may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

If HC has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, HC will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

FUP Youth Vouchers

HC will not terminate a FUP youth's assistance for noncompliance with PCWA case management, nor will HC terminate assistance for a FUP youth for not accepting services from the PCWA.

HC may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, HC may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with HC policies. HC has adopted a preference on its HCV waiting list for FUP youth voucher holders who are being terminated for this reason (see HC Local Preferences).

25.1.10 FUP Portability

Portability for a FUP family or youth is handled in the same way as for a regular HCV family.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

25.1.11 Project-Basing FUP Vouchers

[Notice PIH 2017-21; FR Notice 1/24/22]

HC, at its discretion, may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program.

25.2 Foster Youth to Independence Initiative (FYI)

[Notice PIH 2020-28; Notice PIH 2023-04; FR Notice 1/24/22]

The Foster Youth to Independence (FYI) initiative was announced in 2019. The FYI initiative allows PHAs who partner with a Public Child Welfare Agency (PCWA) to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental assistance and supportive services are provided to qualified youth for a period of between 36 and 60 months.

Funding is available either competitively though an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28, Notice PIH 2021-26, or Notice PIH 2023-04, as applicable.

25.2.1 Partnering Agencies

[Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar]

HC will implement the FYI program in partnership with the Utah Department of Child Family Services (DCFS) and the Continuum of Care (CoC). Partners are responsible for:

- Identifying FYI-eligible youth;
- Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;
- Providing a written certification to HC that the youth is eligible; and
- Providing or securing supportive services for 36 months.

Additionally, HC will implement the FYI program in partnership with the CoC, Salt Lake County Youth Services, The Road Home, Volunteers of America Utah and the 1999 Collective.

25.2.2 Youth Eligibility Criteria

[Notice PIH 2023-04; FYI Q&As; FYI FAQs]

DCFS is responsible for certifying that the youth has prior qualifying foster care involvement. As determined by DCFS, eligible youth:

- Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25th birthday);
    - Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Have left foster care or will leave foster care within 180 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
    - Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;
- Are homeless or at risk of becoming homeless at age 16 and older;

  At risk of being homeless is fully defined at 24 CFR 576.2.
    - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution). Therefore, youth being discharged from an institution may be eligible for an FYI voucher [FYI FAQs].

Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements.

Note: An eligible youth who is leaving foster care may lease a unit with a FYI voucher prior to officially leaving foster care, as long as all requirements of the FYI program and HCV program, including the prohibition on duplicate subsidy, are met. While a youth may be referred for a FYI voucher before reaching the age of 18, HC will not enter into a HAP contract on behalf of a youth until they have reached the age of 18.

25.2.3 Supportive Services

[Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar; FYI Q&As]

Supportive services may be provided by HC, DCFS, or a third party. At a minimum, the following supportive services must be offered:

- Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher;
- Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED) or attendance/financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive services.

25.2.4 Referrals and Waiting List Management

[Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar FYI FAQs]

Referrals

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. Once the CoC sends HC the referral, HC determines HCV eligibility.

The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for an FYI voucher based upon their level of need and appropriateness of the intervention.

Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meets eligibility requirements, unless the PCWA has vested another organization with this authority.

HC is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA. The PCWA is not required to provide HC with HCV eligibility documents.

Waiting List Placement

[Notice PIH 2023-04; FYI FAQs; Notice PIH 2025-08]

Youth already on the HCV program may not be transferred to an FYI voucher since they are not homeless or at-risk of homelessness.

Once a referral is made, HC must compare the list of PCWA referrals to its waiting list to determine if any applicants on the PCWA's referral list are already on HC's waiting list. Applicants already on HC's waiting list retain the order of their position on the list. Applicants not already on HC's waiting list must be placed on the HCV waiting list.

HC may place applicants on its HCV waiting list or may choose to establish a separate waiting list for FUP/FYI applicants.

- If HC uses the HCV waiting list for FUP/FYI applicants:
    - If HC's HCV waiting list is closed, HC must open its HCV waiting list in order to accept new referrals. HC may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants; however, the requirements at 24 CFR 982.206 for giving public notice when opening and closing the waiting list apply.
    - Referrals who are already on the list will retain their position and the list will be notated to indicate the applicant is FYI-eligible.
    - For those referrals not already on the waiting list, HC will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, HC will place the referral on

the HCV waiting list with the date and time of the original referral and an indication that the referral is FYI-eligible.

- If HC opts to establish a separate waiting list for FUP/FYI applicants (pursuant to PIH Notice 2025-08):
    - HC may establish separate preferences for these applicants (other than a residency preference) as long as the system of local preferences and processes for accepting referrals from partners does not violate nondiscrimination requirements under any applicable federal civil rights law.
    - In addition to placing eligible FUP/FYI applicants on the FUP/FYI waiting list, HC shall also place these applicants on the HCV waiting list, if they are not already.
    - HC shall also inform all applicants on the HCV waiting list about the new list and provide an opportunity to be placed on it, provided they meet eligibility criteria.
    - Applicants issued a FYI voucher may remain on the general HCV waiting list.

Waiting List Selection

HC selects eligible youths based on HC's regular HCV waiting list selection policies in APPLICATION, WAITING LIST, & TENANT SELECTION, including any preferences that may apply. However, HC shall not apply a residency preference to FYI vouchers.

25.2.5 PHA HCV Eligibility Determination

[FYI FAQs]

Once an eligible youth is selected from the HCV waiting list, HC must determine whether the youth meets HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to HC on the youth's criminal history.

Additional Eligibility Factors

Youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FYI voucher.

25.2.6 Voucher Issuance

[FR Notice 1/24/22, Notice PIH 2025-08]

Eligible applicants will be notified by HC in writing following the policies in Notice of Eligibility. FYI participants will attend a standard HCV briefing in accordance with BRIEFINGS & VOUCHER ISSUANCE. FYI participants will be briefed individually. In addition to traditional HCV program requirements HC will inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list; and

- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FYI assistance.

For FYI participants, the term of the initial voucher will be 120 days (note: the initial 120-day search term also applies when a youth chooses to move to a new unit with continued assistance inside or outside HC's jurisdiction).

When issuing a FYI voucher to a family which includes an individual with disabilities, HC shall include a current listing of available accessible units known HC, and if necessary, otherwise assist the family in locating an available accessible dwelling unit.

Extensions

HC will accept verbal or written requests for voucher extensions as long as the request is made on or before the expiration date of the voucher. HC will provide at minimum one 90-day extension and will not restrict approval of the initial extension to certain circumstances or require documentation from applicants. All subsequent requests for extension shall be processed in accordance with HC's voucher extension policies. This policy shall apply to both initial applicants as well as participants moving with continued assistance.

For applicants, on at least one occasion after voucher issuance, HC shall notify the applicant to remind them of the expiration date of the voucher and the process for requesting an extension of the initial term, and to inquire if the applicant is in need of assistance with their housing search.

Should a youth fail to use the voucher, HC may issue the voucher to another eligible youth if one has been identified [Notice PIH 2023-04].

25.2.7 Lease Up

Once the participant locates a unit, HC conducts all other processes relating to voucher administration per HCV program regulations and HC's policies (including, but not limited to: NSPIRE inspections, determination of rent reasonableness, etc.).

25.2.8 Maximum Assistance Period

[Notice PIH 2023-04 and FYI FAQs; FR Notice 1/24/22]

Vouchers are limited by statute to a total of between 36 months and 60 months of housing assistance. At the end of the statutory time period, assistance must be terminated. However, any period of time for which no HAP subsidy is being paid on behalf of the youth does not count toward the limitation.

Participants do not "age out" of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

Extension of Assistance

FYI voucher holders may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FYI voucher holders cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in

compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FYI voucher holders must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below). FYI participants who previously rejected offers to participate in FSS will be given a final opportunity to participate in FSS prior to the expiration of their 36-month term. If the participant does not accept HC's final offer to participate in FSS then they will not be approved for an extension of assistance (unless the youth meets one of the statutory exceptions described below).

Statutory Exceptions

FYI voucher holders will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in HC's FSS program if they certify that they meet one of the exceptions below:

- The FYI voucher holder is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.
- The FYI voucher holder is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

An FYI voucher holder that meets one of the above exceptions must still be offered an opportunity to enroll in HC's FSS program (if it is available to them) and receive any supportive services available to FYI voucher holders. An FYI voucher holder may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FYI voucher holder an FSS slot during their first 36 months of receiving FYI assistance, the FYI voucher holder is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The FYI voucher holder was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.
- The FYI voucher holder was enrolled in an institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a proprietary institution of higher education or a postsecondary vocational institution under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.
- The FYI voucher holder was employed. HC will consider the FYI voucher holder to be employed if they work a minimum of 20 hours per week. HC may make exceptions to this requirement if the FYI voucher holder's hours are reduced due to circumstances beyond their control or the FYI voucher holder must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, HUD encourages HC to remind the FYI voucher holder at the 24-month reexamination of the education, workforce development, and employment requirements described above so that they have enough time to meet these requirements prior to the expiration of the 36-month time period for FYI assistance.

FSS Enrollment Between 36 and 48 Months

If an FSS slot becomes available between the 36-month and 48-month mark:

- HC will offer the slot to an FYI voucher holder who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the FYI voucher holder previously declined an FSS slot because they met one of the statutory exceptions).
- HC will work with the FYI voucher holder to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the FYI voucher holder is engaged in and any statutory exceptions that apply to the FYI voucher holder, as well as the remaining time on their voucher.
- If the FYI voucher holder accepts the FSS slot, HC will work with them to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FYI voucher holder is offered an FSS slot prior to the 36-month mark, the FYI voucher holder:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been "unable to enroll" in the FSS program, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

FSS Enrollment After 48 Months

HC may, but is not required, to offer an FYI voucher holder an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the FYI voucher holder will have already received their second and final extension.

Extensions of Assistance

At the 36-month and 48-month reexamination, HC must extend FYI assistance if the FYI voucher holder is participating in and in compliance with the FSS program as long as the FYI voucher holder is still eligible for the HCV program.

In any case, the FYI voucher holder cannot receive more than a total of 60 months of FYI assistance even if the FSS Contract of Participation time period extends beyond the voucher 60- month mark.

Unable to Enroll in FSS

If the FYI voucher holder has been unable to enroll in the program during the first 36 months of receiving FYI assistance, the FYI voucher holder is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the FYI voucher holder

engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the FYI voucher holder may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

Verification Prior to Regular Reexamination

In order to provide an extension of assistance, HC will verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. HC does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

An FYI voucher holder who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FYI voucher holder may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If HC determines that the FYI voucher holder meets one of the statutory conditions, HC would then conduct a regular reexamination. If the regular reexamination determines that the FYI voucher holder is still eligible for the HCV program, HC will provide the FYI voucher holder the extension of voucher assistance.

Termination of Assistance for Failure to Meet Conditions

Failure of the FYI voucher holder to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FYI assistance prior to the annual reexam.

If the FYI voucher holder does not meet any of the statutory conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FYI voucher must be terminated once they reach this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the FYI voucher holder entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the FYI voucher holder, not the number of months that they are in the FYI program. Prior to termination, HC must offer the FYI voucher holder the opportunity to request an informal hearing, in accordance with Chapter 16.

25.2.9 Termination of Assistance

[FYI FAQs]

Termination of a FYI voucher is handled in the same way as with any HCV. HC will not terminate a FYI youth's assistance for noncompliance with case management, nor may HC terminate assistance for a FYI youth for not accepting services.

Given the statutory time limit that requires FYI vouchers to sunset, HC must terminate the youth's assistance once the limit on assistance has expired. HC may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance. However, HC may issue a regular HCV to FYI voucher holders if they were selected from the waiting list in accordance with PHA

policies. HC may also adopt a waiting list preference for FYI voucher holders who are being terminated for this reason. See HC Local Preferences.

25.2.10 Portability

[FYI FAQs]

Portability for an FYI youth is handled in the same way as for a regular HCV family.

An FYI youth does not have to port to a jurisdiction that administers FYI vouchers. If the receiving PHA absorbs the voucher, the PHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth becomes a regular HCV participant with none of the limitations of an FYI voucher.

The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

25.2.11 Project-Basing FYI Vouchers

[FYI FAQs; FR Notice 1/24/22; Notice PIH 2024-03]

HC, at its discretion, may project-base FYI vouchers without HUD approval in accordance with FR Notice 1/24/22 and all statutory and regulatory requirements for the PBV program.

25.3 Veterans Affairs Supportive Housing (VASH) Program

25.3.1 Overview

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to HC;
    - The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.
- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to PHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and

- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance.

Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, HC may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

25.3.2 Referrals

[FR Notice 9/27/21 and HUD-VASH Qs and As]

VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to HC for determination of program eligibility and voucher issuance. HC has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. HC will accept referrals from the partnering VAMC and maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers will be issued to eligible veteran families as identified by the VAMC.

25.3.3 HCV Program Eligibility

[FR Notice 9/27/21, FR-6476-N-01

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Social Security Numbers

When verifying the SSN for the homeless veteran, HC will accept self-certification of the SSN and a VA-issued ID, VA-issued document with the veteran's name (such as a benefit letter, Certificate of Release or Discharge from Active Duty (DD 214), or Application for Health Benefits (10-10EZ). HC will also accept these documents as proof of age.

For members of the VASH household, HC will accept self-certification of the SSN and at least one (1) of the third-party document such as a bank statement, utility or cell phone bill, or benefit letter that contains the name of the individual.

Proof of Age

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

Photo Identification

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

Income Eligibility

HC will generally follow the HCV policies outlined in ELIGIBILITY to determine if a family is eligible to receive assistance through the VASH program, with the following exceptions:

- A family with income that does not exceed 80% of Area Median Income (AMI), or a "low-income" family, who is otherwise eligible for the VASH program, will be eligible for admission.
- For the purposes of determining income eligibility, HC will exclude VA service-connected disability benefits. However, these benefits will be included when calculating the family's income for the purposes of determining the family share and HAP.

While income-targeting does not apply to VASH vouchers, HC may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

Screening

HC may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: HCs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [New HCV GB, *HUD-VASH,* p. 6].

Denial of Assistance

[Notice PIH 2008-37]

Once a veteran is referred by the VAMC, HC must either issue a voucher or deny assistance. If HC denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Denial of Assistance. In addition, a copy of the denial notice must be sent to the VAMC case manager.

25.3.4 Determining Income and Assets

Generally, income for VASH families is determined the same way as for other HCV households, with the following exceptions:

- For the purposes of determining income eligibility, HC will exclude VA service-connected disability benefits. However, these benefits will be included when calculating the family's income for purposes of determining family share and HAP (see
- If a VASH family reports zero income, HC will accept a self-certification of zero income from the family at admission or recertification without taking any additional steps to require that the family verify zero reported income. The self-certification does not need to be notarized. HC will verify families' income in the EIV system within 120 days after admission.
- In determining compliance with Asset Restrictions, HC will accept a self-certification by the family that the family's total assets are equal to or less than $50,000, adjusted annually for inflation, and that the family does not have any present ownership interest in real property, without taking additional steps to verify the accuracy of the declaration. For net family assets exceeding $50,000, adjusted annually for inflation, HC will fully verify the family's assets as required for all HCV families. HC must not enforce the asset limitation for VASH families at reexamination.

25.3.5 Changes In Family Composition

Remaining Family Members

[HUD-VASH Qs and As]

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. HC may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

Family Break Up

[HUD-VASH Qs and As]

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides HC's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

25.3.6 Leasing

[FR Notice 9/27/21]

Exception Payment Standards

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

HC currently utilizes a VASH-specific exception payment standard, which is generally set at 120% of area-wide FMR.

Voucher Issuance

All VASH vouchers will have an initial term of 120 calendar days. The family must submit an RFTA and proposed lease within the 120-day period unless HC grants an extension.

Initial Lease Term

Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months.

Ineligible Housing

[FR Notice 6/18/14]

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only.

Pre-Inspections

To expedite the leasing process, HC may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a pre-inspection (without intervening occupancy) within 45 days of the date of the RFTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, HC will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

25.3.7 Portability

[FR Notice 9/27/21 and Notice PIH 2011-53]

General Requirements

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

Portability within the Initial VAMC or DSP's Catchment Area

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.
    - If the PHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMC or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. HC will follow its policies in APPENDIX A: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING. HC may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

25.3.8 Termination of Assistance

[FR Notice 9/27/21]

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to HC but could not be considered at the time of admission due to VASH program requirements. HC may terminate the family's assistance only for program violations that occur after the family's admission to the program.

Cessation of Case Management

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, HC may offer the family continued assistance through one of its regular vouchers. If HC has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as HC has an available voucher for the family.

VAWA

[FR Notice 9/27/21]

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

25.3.9 Project-Basing VASH Vouchers

General Requirements

[Notice PIH 2017-21 and FR Notice 9/27/21, FR-6476-N-01]

HC is authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available.

Additionally, as permitted under the Revised VASH Implementation Notice (FY-6476-N-01), HC may select one or more PBV projects with units made exclusively available to VASH families on the site of a VA facility without a competitive process.

If VASH supportive services are available at the VASH-PBV project, HC may admit a family whose total tenant payment (TTP) exceeds the gross rent ("zero HAP") if they are otherwise eligible for VASH. Additionally, HC will not remove from the HAP contract those units occupied by zero HAP families.

In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV Program Cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If HC project-bases VASH vouchers, HC must consult with the partnering VAMC or DSP to ensure approval of the project or projects. HC may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. HC must refer only

VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to HC and there is an available PBV unit that is not exclusively made available to VASH families, HC may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and HC may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

HC and the owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as HC first consults with the VAMC or DSP. Additionally, HC and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under HC's program cap).

Policies for VASH PBV units will generally follow PROJECT BASED VOUCHER (PBV) ASSISTANCE requirements, with the exception of the policies listed below.

Failure to Participate in Case Management

[FR Notice 9/27/21]

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, HC will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

HC may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, HC must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. HC may add the removed unit to the HAP contract after the ineligible family vacates the property.

Moves

[HUD-VASH Qs and As, FR Notice 9/27/21]

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, HC may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, HC may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, HC is required to replace the assistance in the PBV unit with one of its regular vouchers, unless HC and owner agree to temporarily remove the unit from the HAP contract; and

- If a VASH veteran is determined to no longer require case management, HC must allow the family to move with the first available tenant-based voucher if no VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

25.4 Mainstream Voucher Program

25.4.1 Program Overview

[Notice PIH 2020-01]

Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. HC cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

25.4.2 Eligible Population

[Notice PIH 2020-01 and Notice PIH 2020-22]

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program (see Definition of a Person with a Disability – Disabled Deduction).

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

25.4.3 Partnership and Supportive Services

[Notice PIH 2020-01]

HC implements its Mainstream Voucher Program in partnership with, but not limited to the following agencies: The Road Home, First Step House, Advocates for Independence, Utah State Hospital, Valley Behavioral Health, U of U Hospital, North Eastern Services, Foundations for Independence, VOA, Avalon West, Envision Quality, Phoenix Services, Care Advocates, YWCA, Frontline Services, Columbus Community Center and Utah Independent Living Center.

25.4.4 Waiting List Administration

HC does not maintain a separate waiting list for Mainstream voucher assistance [24 CFR 982.204(f)]. All HC policies on opening, closing, and updating the waiting list, as well as waiting list preferences in APPLICATION, WAITING LIST, & TENANT SELECTION apply to the Mainstream program.

When HC is awarded Mainstream vouchers, these vouchers will be used for new admissions to HC's program from the waiting list. HC will lease these vouchers by pulling the first Mainstream-eligible family

from its tenant-based waiting list. HC will not reassign existing participants to the program in order to make regular tenant-based vouchers available. Further, HC will not skip over Mainstream-eligible families on the waiting list because HC is serving the required number of Mainstream families.

Upon turnover, vouchers will be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, HC will determine if the families at the top of the waiting list qualify under program requirements.

Admission Preferences

[Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]

In its FY 2017 and FY 2018 Mainstream applications, HC claimed a preference for certain targeted groups.

- For vouchers awarded under the FY 2017 NOFA opportunity, HC will offer the following preference(s) to Mainstream-eligible households who are:
    - Transitioning out of institutional or other segregated settings;
    - At serious risk of institutionalization;
    - Homeless; or
    - At risk of becoming homeless.
- For vouchers awarded under the FY 2018 NOFA opportunity, HC will offer the following preference(s) to Mainstream-eligible households who are:
    - Transitioning out of institutional or other segregated settings;
    - At serious risk of institutionalization;
    - Homeless; or
    - Previously experienced homelessness and currently a client in a permanent supportive housing or rapid rehousing project.

25.4.5 Voucher Issuance

Mainstream vouchers will be issued for an initial term of 120 days.

Applicants or participants who are unable to locate a unit to lease during the initial voucher term may request an extension. Requests for extension may be made in writing or verbally as long as the request is made on or before the term expiration date and is consistent with the applicable requirements. Any subsequent extension requests beyond the initial extension must be made in writing and consistent with the policies in this Plan.

HC will notify the family prior to the initial term expiration at least once to remind them of the term expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search.

HC will approve extensions to the voucher term for a period of at least 90 additional days.

25.4.6 Portability

[Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

Mainstream voucher participants are eligible for portability under standard portability rules and all HC policies regarding PORTABILITY apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
    - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
    - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

25.4.7 Project-Basing Mainstream Vouchers

[FY19 Mainstream Voucher NOFA Q&A]

HC may project-base Mainstream vouchers in accordance with all applicable PBV regulations and policies in PROJECT BASED VOUCHER (PBV) ASSISTANCE.

25.5 Non-Elderly Disabled (NED) Vouchers

[Notice PIH 2013-19]

NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers.

Housing Connect has the following type(s) of NED vouchers:

- **Category 1** vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market.

25.5.1 Eligible Population

[Notice PIH 2013-19]

Only eligible families whose head of household, spouse, or cohead is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not "age out," as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

The definition of person with disabilities for purposes of NED vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

HC may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

25.5.2 Waiting List

[Notice PIH 2013-19]

Families must be selected for NED vouchers from HC's waiting list in accordance with all applicable regulations and policies in APPLICATION, WAITING LIST, & TENANT SELECTION.

Regardless of the number of NED families HC is required to serve, the next family on the waiting list must be served. Further, HC may not skip over NED-eligible families on the waiting list because HC is serving the required number of NED families.

Reissuance of Turnover Vouchers

[Notice PIH 2013-19]

All NED turnover vouchers must be reissued to the next NED family on HC's waiting list.

All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, HC must contact HUD.

25.5.3 Lease Up

[Notice PIH 2013-19]

Briefings

In addition to providing families with a disabled person a list of accessible units known to HC, HC will provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the briefing packet. These organizations include state protection and advocacy agencies, Centers for Independent Living, state Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

Further, if other governmental or non-governmental agencies provide available resources such as housing search counseling, moving expenses, security deposits, and utility deposits, HC will include this information in the briefing packet.

HC will also offer specialized housing search assistance to families with a disabled person to locate accessible units if requested. Trained HC staff or a local supportive service or disability organization may be able to provide this service.

Special Housing Types

[Notice PIH 2013-19 and NED Category 2 FAQs]

In general, HC is not required to permit families to use any of the special housing types and may limit the number of families using such housing. However, HC must permit the use of a special housing type if doing so provides a reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the housing assistance payments (HAP) made by HC to the owner, and as long as the person does not need continual medical or nursing care.

25.5.4 Portability

[NED Category 2 FAQs]

NED voucher participants are eligible for portability under standard portability rules and all policies regarding PORTABILITY apply to NED families. However, HC may, but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in HC's jurisdiction when they applied.

CHAPTER 26: HARDSHIP POLICIES

26.1 OVERVIEW

HC has developed conditions-based hardship policies to address and mitigate financial hardships which may occur at enrollment or at any time during the tenancy or program participation.

The table below identifies HC's hardship policies by topic and applicable group:

	Hardship Policy	Applicable To
General	• Minimum Rent Hardship	All HCV Households: MTW (All Groups) and Non-MTW households
HOTMA	• Health and Medical Care Expense and/or Disability Expense Hardship	MTW Control and Excluded groups, and Non-MTW households
	• Child Care Expense Hardship	MTW Control and Excluded groups, and Non-MTW households
MTW	• Alternative Verification Hierarchy	All HCV Households: MTW (All Groups) and Non-MTW households

	• Rent Burden Hardship at Enrollment
	• Rent Burden Hardship After Enrollment
	  ○ Stepped Rent Reset for Sustained Hardships
	  ○ Full-Time Student Hardship
	  ○ Other Hardship
		MTW Treatment Group Only

26.2 MINIMUM RENT HARDSHIP

Applicable to: All program households

HC may grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of a financial hardship. The minimum rent hardship policy applies to households who are required to pay the minimum rent. If a household's TTP is higher than the minimum rent, the household is not eligible for a minimum rent hardship exemption.

26.2.1 Defined Financial Hardships

Financial hardship includes the following situations:

1. The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program.
    a. A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

b. For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following:

   i. Implementation of assistance, if approved, or

   ii. The decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

2. The family would be evicted because it is unable to pay the minimum rent. For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

3. Family income has decreased because of changed family circumstances, including the loss of employment.

4. A death has occurred in the family. In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

26.2.2 Determination of Financial Hardship from Minimum Rent

When a family requests a financial hardship exemption, HC will suspend the minimum rent requirement beginning the first of the month following the family's request. HC will then determine whether the financial hardship exists and whether the hardship is temporary or long-term.

HC defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family will be required to pay the higher of:

- 30% of their monthly adjusted income, or
- 10% of their monthly gross income.

No Financial Hardship

If HC determines there is no financial hardship, HC will reinstate the minimum rent and require the family to repay the amounts suspended within 30 calendar days of HC's notice that a hardship exemption has not been granted.

Temporary Hardship

If HC determines that a qualifying financial hardship is temporary, HC will suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay HC the amounts suspended. HC will offer a reasonable repayment agreement, on terms and conditions established by HC. HC also may determine that circumstances have changed and the hardship is now a long-term hardship.

HC will enter into a repayment agreement in accordance with the policies in this plan.

Long-Term Hardship

If HC determines that the financial hardship is long-term, HC will exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

The hardship is deemed to be discontinued when the family's TTP is greater than the minimum rent.

Families on approved hardships from minimum rent are required to report all increases in income and/or decreases in unreimbursed expenses, where applicable, within 15 calendar days from the date of occurrence.

26.3 HEALTH AND MEDICAL CARE AND DISABILITY ASSISTANCE EXPENSES

Note: the following section is only applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to implementation, the following does not apply.

Applicable to: MTW Control and Excluded Groups, and Non-MTW Households

Families in the MTW Control and Excluded groups and non-MTW households may request hardships related to health and medical care expenses and/or disability assistance expenses. There are two categories of hardship for this:

1. **Category #1 – Phased-In Relief** is for households receiving a medical expense deduction upon implementation of HOTMA and subject to applicable HUD guidance.

    a. Hardships for this category will be applied automatically to each household receiving a medical and/or disability expense deduction as of the most recent income review upon implementation of HOTMA and where that deduction exceeds 5 percent of the family's annual income. No request for the hardship is required.

    b. For families that are eligible for this category, the following phased-in relief may be offered if the hardship is granted:

        i. For the first year, a deduction of eligible expenses that exceed 5 percent of the family's annual income;

        ii. For the second year, a deduction of the eligible expenses that exceed 7.5 percent of the family's annual income; and

        iii. For the third year, a deduction of the eligible expenses that exceed 10 percent of the family's annual income, unless the family qualifies for a new exemption under the second hardship category.

    c. The hardship will remain in place for two consecutive years unless the family receives a hardship exemption under Category #2 below. If the family receives a hardship under the second category, they may no longer receive relief under Category #1. Households may not receive a second hardship under Category #1.

    d. This is a transitional category that will phase out.

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

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

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

2. **Category #2 – General Relief** is for qualifying hardships that would not otherwise trigger a reexamination.

   a. A family may qualify for the second category of hardship exemption for health and medical care expenses and/or disability assistance expenses at any time if they can demonstrate that the family's applicable health and medical care expenses or reasonable attendant care or auxiliary apparatus expenses increase or the family's financial hardship is a result of a change in circumstances (as defined by HC) that would not otherwise trigger an interim reexamination. This relief may be given to a family regardless of whether they received (or are currently receiving) relief under the first hardship category.

   b. Category #2 hardship requests must be made by the participant in writing.

   c. If approved for the hardship, under this category, the family will receive a deduction of eligible expenses that exceed 5 percent of the family's annual income until the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. HC, at its discretion, may extend this relief for one additional 90-day period while the family's hardship continues.

   d. See Hardship Notification Requirements for additional requirements.

26.4 CHILD CARE EXPENSE HARDSHIP

Note: the following section is only applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to implementation, the following does not apply.

Applicable to: MTW Control and Excluded Groups, and Non-MTW Households

When a family in the Control or Excluded group or a non-MTW household demonstrates to HC's satisfaction that they are unable to pay their rent because of loss of the child care expense deduction, and the child care expense is still necessary even though the family member is no longer employed, seeking work, or furthering their education, HC will grant a hardship to allow the child care expense to continue for a limited time.

- A hardship due to an inability to pay rent as a result of the loss of child care deductions must be requested, in writing, by the household.
- For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction.
    - HC defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.
    - Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.
    - The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. HC will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).
    - The family must provide third-party verification of the hardship with the request. If third-party verification is not available, HC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.
- Relief for an approved hardship exemption includes a continuation of the child care deduction for a period of up to 90 days. HC, at its discretion, may extend the hardship exemption for one additional 90-day period based on family circumstances.
- HC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.
    - If the family qualifies for an exemption, HC will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.
- If HC denies the hardship exemption request, the notice will also state that if the family does not agree with HC's determination, the family may request an informal hearing. See Hardship Notification Requirements for additional requirements.

26.5 HARDSHIP NOTIFICATION REQUIREMENTS

Note: the following section is only applicable upon implementation of the HOTMA Final Rule (Sections 102 and 104). Prior to implementation, the following does not apply.

HC will promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of any hardship exemption. The written notice will inform the

family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to HC the circumstances that made the family eligible for relief are no longer applicable.

The notice will state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. HC will provide families with 30 days' notice of any increase in rent.

26.5.1 Family Notification of Hardship Exemption Denial

HC will promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification will specifically state the reason for the denial.

26.5.2 Family Notification of Hardship Exemption Termination

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

26.5.3 Extension of Hardship Exemption for Additional 90-Day Period(s)

HC may at its discretion extend hardship exemptions for additional 90-day periods if the hardship continues pursuant to HC's hardship policies. This provision applies to families receiving hardship exemptions for the child-care expenses deduction and general hardship relief for health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

HC may extend the hardship relief for as many 90-day periods as the hardship continues to affect the family. HC will obtain third-party verification of the family's inability to pay rent or must document in the file the reason that third-party verification was not available.

26.6 MTW HARDSHIPS

The Stepped Rent policy is intended to benefit assisted households by allowing them to increase their income without a direct increase in their total tenant payment (TTP). The TTP will instead increase each year by a modest amount unrelated to the household's income. However, some households may need special accommodations to avoid negative consequences of the stepped rent.

HC has developed conditions-based hardship policies as described below to address and mitigate financial hardships which may occur at enrollment or at any time during tenancy or program participation.

HC's general MTW hardship policies are outlined below:

1. HC will review its hardship policies with families during its intake and recertification process and will consider if a household qualifies for a hardship exemption at the time of a potential termination of assistance that is due to an MTW activity.

2. There is no limit to the number of hardships that a household may receive.

3. If a household is approved for a hardship, and subsequently experiences another adverse event while still in hardship status, they may request an additional hardship that might further reduce their TTP.

4. If a household is approved for a hardship, they are not required to report subsequent income increases during the period of their approved hardship. Once HC approves a hardship, the hardship will not end early.

5. If a household is approved for a temporary hardship, when that hardship is scheduled to expire the household will be notified and may request an extension. When a hardship expires, the household will return to paying the stepped rent, including any annual stepped rent increases that were scheduled to take effect during the hardship period.

6. If the head of household, spouse, or co-head of household becomes elderly or disabled, the household is eligible to be excluded from the stepped rent policy and return to the traditional income-based rent policy.

This hardship policy presents eligibility criteria and remedies for different types of hardships. The different types of hardships below are not mutually exclusive. If a household's circumstances correspond to more than one type of hardship, they will receive the hardship most beneficial to them.

26.6.1 Hardship Process

All MTW households who request a hardship will be subject to the hardship process outlined below.

- With the exception of automatic hardship processed by HC, during the income certification that takes place at enrollment, hardship requests must be made in writing.

- When a household makes a written request for a hardship exemption from a required MTW activity, HC will request verification of the hardship. When a household submits a valid hardship request, the HC will suspend the MTW activity for the household, beginning the next month after the request, until the HC has determined if the hardship request is warranted.

- The hardship TTP will be calculated consistent with applicable HC hardship policies.

- HC will retain records of all hardship requests received and the results of these requests and supply them at HUD's request. HC will retain this information for the duration of HC's participation in the MTW demonstration program and make such information available for public review and inspection at HC's principal office during normal business hours.

- If a hardship request is denied, HC will provide the household with an opportunity to request an informal review/hearing for a second level review of the denied hardship request.

- Approved hardship rents will remain in place for a twelve-month period at which time the household must reapply for hardship. If the household does not reapply or is not approved for a continued hardship, the rent will revert back to the pre-hardship stepped rent TTP, plus any annual stepped rent TTP increases that were scheduled to take effect during the hardship period.

26.6.2 Alternative Verification Hierarchy Hardship

Applicable to: All program households

If a household does not agree with an income and rent determination which may be predicated upon the use of third-party documents and tenant declarations outside of the HUD standard verification hierarchy,

the household may request an informal hearing as a second level of review of HC's determinations. HC will follow its existing policies upon receipt of the household's request for an informal hearing.

26.6.3 Rent Burden Hardship at Enrollment

Applicable to: MTW Stepped Rent Treatment group only

For households in the MTW Stepped Rent Treatment group already receiving assistance, HC conducts an income examination at the time of enrollment in Stepped Rent program. HC will compare the household's current adjusted income with their prior year/retrospective adjusted income. If the household's current adjusted income is lower than their prior/retrospective adjusted income, HC will automatically determine whether the household is eligible for a temporary hardship exemption.

- A household will be eligible for this hardship if, at enrollment, the household's current adjusted income is lower than their prior/retrospective adjusted income and their rent burden exceeds 40% (stepped rent total tenant payment divided by current adjusted monthly income).
- Hardship requests do not need to be made at enrollment. HC will automatically determine if a hardship, due to a decrease in income exists.
- If a hardship exists, the household's TTP will be set at 40% of their current adjusted monthly income or the minimum rent, whichever is greater.
- The hardship will remain in place for a 12-month period.
- At the end of that 12-month period, if the household requests that the hardship be extended and the verified hardship condition continues to exist, HC will reset the household's stepped rent and the hardship will end.
- If the household does not reapply for the hardship or is not approved for a stepped rent reset, the stepped rent will revert back to the pre-hardship stepped rent TTP plus any annual stepped rent increases that were scheduled to take effect during the hardship period.

26.6.4 Rent Burden Hardship After Enrollment

Applicable to: MTW Treatment group only

Households already receiving assistance under Stepped Rent will be eligible for a temporary hardship TTP if the stepped rent causes a rent burden of 40% or higher. This hardship may be due to a decrease in income, an increase in eligible deductions or the annual stepped rent increase.

- A household will be eligible for this hardship exemption if their rent burden (total tenant payment divided by their current adjusted monthly income) exceeds 40%.
- A hardship due to rent burden must be requested, in writing, by the household.
- Rent burden may be the result of a decrease in income, an increase in eligible deductions or may be due to the application of annual stepped rent increases.
- This hardship would not apply to households with seasonal income as the income calculation for seasonal income takes into account periods of unemployment.

- If a hardship exists, the household's hardship TTP will be set at 40% of their current adjusted monthly income or the minimum rent, whichever is greater.
- The hardship will remain in place for a 12-month period.
- At the end of that 12-month period, if the household requests that the hardship be extended and the verified hardship condition continues to exist, HC will reset the household's stepped rent and the hardship will end. Rent reset, as a result of continued hardship, is based upon verification that the household meets the 40% rent burdened threshold.
- If the household does not reapply for the hardship or is not approved for a stepped rent reset, the stepped rent will revert back to the pre-hardship stepped rent TTP plus any annual stepped rent increases that were scheduled to take effect during the hardship period.

26.6.5 Stepped Rent Reset for Sustained Hardships

Applicable to: MTW Treatment group only

If a household receives a temporary hardship due to a rent burden above 40%, and the hardship condition persists after 12 consecutive months, HC will reset the household's stepped rent and determine a new stepped rent TTP which is the higher of the minimum rent or 30% of prior/retrospective adjusted income.

- If the hardship condition continues to exist 12 consecutive months after receiving a temporary rent burden hardship, a household will be eligible for a stepped rent TTP reset. Rent reset, as a result of continued hardship, is based upon verification that the household meets the 40% rent burdened threshold.
- A request to renew an existing hardship must be requested, in writing, by the household.
- It a sustained hardship exists, HC will calculate a new stepped rent TTP at the higher of the minimum rent or 30% of prior/retrospective adjusted income.
- This will not be a temporary hardship. HC will establish a new base on which future stepped rent annual increases will be applied.

26.6.6 Full-Time Student Hardship

Applicable to: MTW Treatment group only

HC will grant a full-time student status hardship rent, to a household in the Treatment group, if a family member, other than the head of household, co-head or spouse, has earned income and, subsequent to enrollment, becomes a full-time student. Upon verification of full-time student status, HC will exclude all but $480 of the full-time student's earned income, include a $480 dependent deduction and calculate the hardship rent at 40% of current/adjusted monthly income.

- A household will be eligible for this hardship exemption if the household's current adjusted monthly income, with the full-time student income exclusion and dependent deduction, results in a rent burden (total tenant payment divided by their current adjusted monthly income) exceeds 40%.
- A hardship due to full-time student status must be requested in writing by the household.

- If a hardship exists, the hardship TTP will be set using 40% of current/adjusted monthly income or the minimum rent, whichever is greater.
- The hardship will remain in place for a 12-month period after which the family must reapply for the hardship and provide verification of full-time student status.
- If the family does not reapply and provide verification of full-time student status, the stepped rent TTP will revert to the pre-hardship stepped rent TTP plus any applicable stepped rent increases.
- Changes in student status do not need to be reported during the approved 12-month hardship period. When and if the household reapplies for the full-time student hardship, if the individual is no longer a full-time student, HC will reinstate the pre-hardship stepped rent plus any applicable stepped rent increases.

26.6.7 Other Hardship

Applicable to: MTW Treatment group only

A household in the Treatment group may request a hardship exemption for other circumstances not outlined above, such as the death of a family member, a significant increase in reasonable and necessary out-of-pocket expenses because of changed circumstances (for example, a large medical bill), or if the household is facing eviction due to inability to pay the rent. HC will consider these requests on a case-by-case basis and decisions will be made by the Department Director level or above.

- The Department Head or their designee will determine that circumstances beyond the household's control make it difficult for the household to pay the tiered rent TTP, and a temporary rent reprieve is necessary.
- HC will review the household's current/anticipated income and determine whether to set the TTP at a lower income tier or apply the $50 minimum rent based on the individual hardship.
- The duration of the hardship rent will be determined on a case-by-case basis which will reflect the anticipated duration of the presented hardship.

GLOSSARY OF TERMS AND DEFINITIONS

1. ***Absorption.*** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

2. ***Accessible.*** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

3. ***Adjusted income.*** Annual income, less allowable HUD deductions and allowances.

4. ***Administrative fee.*** Fee paid by HUD to the PHA for administration of the program. See §982.152.

5. ***Administrative plan.*** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

6. ***Admission.*** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

7. ***Affiliated individual.*** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

8. ***Amortization payment.*** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

9. ***Annual.*** Happening once a year.

10. ***Annual contributions contract (ACC).*** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

11. ***Annual income.*** All amounts not specifically excluded in 24 CFR 5.609(b), received from all sources by each member of the family who is 18 years of age or older or is the head of household, spouse or cohead, plus unearned income by or on behalf of each dependent who is under 18 years of age.

12. ***Applicant (applicant family).*** A family that has applied for admission to a program but is not yet a participant in the program.

13. ***Area exception rent.*** An amount that exceeds the published FMR. See 24 CFR 982.504(b).

14. ***As-paid states.*** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

15. ***Assets.*** (See *net family assets.*)

16. ***Auxiliary aids.*** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

17. ***Biennial.*** Happening every two years.

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

19. ***Budget authority.*** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

20. ***Child.*** *A* member of the family other than the family head or spouse who is under 18 years of age.

21. ***Child care expenses.*** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

22. ***Citizen.*** *A* citizen or national of the United States.

23. ***Cohead.*** An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

24. ***Common space.*** In shared housing, the space available for use by the assisted family and other occupants of the unit.

25. ***Computer match.*** The automated comparison of databases containing records about individuals.

26. ***Confirmatory review.*** An on-site review performed by HUD to verify the management performance of a PHA.

27. ***Consent form.*** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

28. ***Congregate housing.*** Housing for elderly persons or persons with disabilities that meets the inspection standards for congregate housing. A special housing type: see 24 CFR 982.606–609.

29. ***Contiguous MSA.*** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

30. ***Continuously assisted.*** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

31. ***Contract authority.*** The maximum annual payment by HUD to a PHA for a funding increment.

32. ***Cooperative*** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

33. ***Covered families.*** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

34. ***Dating violence.*** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

    (1) The length of the relationship

    (2) The type of relationship

    (3) The frequency of interaction between the persons involved in the relationship

35. ***Day laborer.*** An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

36. ***De minimis error.*** An error that results in a difference in the determination of a family's adjusted income of $30 or less per month.

37. ***Dependent.*** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

38. ***Dependent child.*** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

39. ***Disability assistance expenses.*** Reasonable expenses that, when combined with health and medical care expenses, exceed 10 percent of annual income and are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the

disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

40. ***Disabled family.*** A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

41. ***Disabled person.*** See *person with disabilities.*

42. ***Disallowance.*** Exclusion from annual income.

43. ***Displaced family.*** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

44. ***Domestic violence.*** Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

    (1) The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim

    (2) A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner

    (3) A person with whom the victim shares a child in common

    (4) A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

45. ***Domicile.*** The legal residence of the household head or spouse as determined in accordance with state and local law.

46. ***Drug-related criminal activity.*** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

47. ***Earned income.*** Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

48. ***Economic abuse.*** Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:

(1) Restrict a person's access to money, assets, credit, or financial information

(2) Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage

(3) Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

49. ***Economic self-sufficiency program.*** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

50. ***Elderly family.*** A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

51. ***Elderly person.*** An individual who is at least 62 years of age.

52. ***Eligible family*** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family.*

53. ***Employer identification number (EIN).*** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

54. ***Evidence of citizenship or eligible status.*** The documents which must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

55. ***Extremely low-income family.*** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

56. ***Fair Housing Act.*** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

57. ***Fair market rent (FMR).*** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

58. ***Family.*** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy. Family includes a single person, who may be:

    (1) An elderly person, displaced person, disabled person, near-elderly person, or any other single person;

    (2) An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

    Family also includes a group of persons residing together, and such group includes, but is not limited to:

    (1) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);

    (2) An elderly family;

    (3) A near-elderly family;

    (4) A disabled family;

    (5) A displaced family; and

    (6) The remaining member of a tenant family.

59. ***Family rent to owner.*** In the voucher program, the portion of rent to owner paid by the family.

60. ***Family self-sufficiency program*** (FSS program). The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

61. ***Family share.*** The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

62. ***Family unit size.*** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

63. ***Federal agency.*** A department of the executive branch of the federal government.

64. ***Foster adult.*** A member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

65. ***Foster child.*** A member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

66. ***Foster child care payment.*** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

67. ***Full-time student.*** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). See 24 CFR 5.603.

68. ***Funding increment.*** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

69. ***Gender identity.*** Actual or perceived gender-related characteristics.

70. ***Gross rent.*** The sum of the rent to owner plus any utility allowance.

71. ***Group home.*** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

72. ***Handicap.*** Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

73. ***HAP contract.*** The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

74. ***Head of household.*** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

75. ***Health and medical care expenses.*** Any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

76. ***Household.*** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

77. ***Housing assistance payment.*** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

78. ***Housing agency (HA).*** See *public housing agency.*

79. ***HUD.*** The U.S. Department of Housing and Urban Development.

80. ***Human trafficking.*** A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

    (1) Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).

    (2) Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

81. ***Imputed welfare income.*** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

82. ***Income for eligibility.*** Annual income.

83. ***Income information*** means information relating to an individual's income, including:

    (1) All employment income information known to current or previous employers or other income sources

    (2) All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law

    (3) Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received

    (4) Unearned IRS income and self-employment, wages, and retirement income

    (5) Wage, social security, and supplemental security income data obtained from the Social Security Administration.

84. ***Independent contractor.*** An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an

individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

85. ***Individual with handicaps.*** See *person with disabilities.*

86. ***Inflationary index.*** An index based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) used to make annual adjustments to the deduction for elderly disabled families, the cap for imputing returns on assets, the restriction on net family assets, the amount of net assets the PHA may determine based on self-certification by the family, and the dependent deduction.

87. ***Initial PHA.*** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

88. ***Initial payment standard.*** The payment standard at the beginning of the HAP contract term.

89. ***Initial rent to owner.*** The rent to owner at the beginning of the HAP contract term.

90. ***Inside.*** Under NSPIRE, the inside of HUD housing (or "inside areas") refers to the common areas and building systems that can be generally found within the building interior and are not inside a unit. Examples of "inside" common areas may include, basements, interior or attached garages, enclosed carports, restrooms, closets, utility rooms, mechanical rooms, community rooms, day care rooms, halls, corridors, stairs, shared kitchens, laundry rooms, offices, enclosed porches, enclosed patios, enclosed balconies, and trash collection areas. Examples of building systems include those components that provide domestic water such as pipes, electricity, elevators, emergency power, fire protection, HVAC, and sanitary services.

91. ***Institution of higher education.*** An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

92. ***Jurisdiction.*** The area in which the PHA has authority under state and local law to administer the program.

93. ***Landlord.*** Either the owner of the property or their representative, or the managing agent or their representative, as shall be designated by the owner.

94. ***Lease.*** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

95. ***Life Threatening deficiency.*** Under NSPIRE, the life-threatening category includes deficiencies that, if evident in the home or on the property, present a high risk of death or severe illness or injury to a resident.

96. ***Live-in aide.*** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(1) Is determined to be essential to the care and well-being of the persons;
(2) Is not obligated for the support of the persons; and
(3) Would not be living in the unit except to provide the necessary supportive services.

97. ***Local preference.*** A preference used by the PHA to select among applicant families.

98. ***Low deficiency.*** Under NSPIRE, deficiencies critical to habitability but not presenting a substantive health or safety risk to resident.

99. ***Low-income family.*** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

100. ***Manufactured home.*** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the inspection standards. (A special housing type: see 24 CFR 982.620 and 982.621.)

101. ***Manufactured home space.*** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

102. ***Minor.*** A member of the family household other than the family head or spouse, who is under 18 years of age.

103. ***Mixed family.*** *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

104. ***Moderate deficiency.*** Under NSPIRE, this includes deficiencies that, if evident in the home or on the property, present a moderate risk of an adverse medical event requiring a healthcare visit; cause temporary harm; or if left untreated, cause or worsen a chronic condition that may have long-lasting adverse health effects; or that the physical security or safety of a resident or their property could be compromised.

105. ***Monthly adjusted income.*** One twelfth of adjusted income.

106. ***Monthly income.*** One twelfth of annual income.

107. ***Mutual housing.*** Included in the definition of *cooperative.*

108. ***National.*** *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

109. ***National Standards for the Physical Inspection of Real Estate.*** HUD's housing inspection approach. NSPIRE is a single inspection standard for all units under the Public Housing, HCV, Multifamily, and Community Planning and Development (CPD) programs. NSPIRE's focus is on the areas that impact residents the most, such as the dwelling unit.

110. ***Near-elderly family.*** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of

age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

111. ***Net family assets****.* The net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

112. ***Noncitizen.*** *A* person who is neither a citizen nor national of the United States.

113. ***Notice of funding availability (NOFA).*** For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

114. ***Office of General Counsel (OGC).*** The General Counsel of HUD.

115. ***Outside.*** Under NSPIRE, outside of HUD housing (or "outside areas") refers to the building site, building exterior components, and any building systems located outside of the building or unit. Examples of "outside" components may include fencing, retaining walls, grounds, lighting, mailboxes, project signs, parking lots, detached garage or carport, driveways, play areas and equipment, refuse disposal, roads, storm drainage, non-dwelling buildings, and walkways. Components found on the exterior of the building are also considered outside areas, and examples may include doors, attached porches, attached patios, balconies, car ports, fire escapes, foundations, lighting, roofs, walls, and windows.

116. ***Overcrowded.*** A unit that does not have at least one bedroom or living/sleeping room for each two persons.

117. ***Owner.*** Any person or entity with the legal right to lease or sublease a unit to a participant.

118. ***PHA Plan.*** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

119. ***PHA's quality control sample.*** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

120. ***Participant (participant family).*** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

121. ***Payment standard.*** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

122. ***Person with disabilities.*** *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

123. ***Portability*.** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

124. ***Premises*.** The building or complex in which the dwelling unit is located, including common areas and grounds.

125. ***Private space*.** In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

126. ***Project owner.*** The person or entity that owns the housing project containing the assisted dwelling unit.

127. ***Public assistance*.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

128. ***Public housing agency (PHA).*** Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

129. ***Qualified census tract.*** With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

130. ***Real property.*** *Real property* has the same meaning as that provided under the law of the state in which the property is located.

131. ***Reasonable rent*.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

132. ***Reasonable accommodation.*** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

133. ***Receiving PHA*.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

134. ***Recertification*.** Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

135. ***Remaining member of the tenant family*.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

136. ***Rent to owner.*** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

137. ***Residency preference.*** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

138. ***Residency preference area.*** The specified area where families must reside to qualify for a residency preference.

139. ***Responsible entity*.** For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

140. ***Secretary*.** The Secretary of Housing and Urban Development.

141. ***Section 8*.** Section 8 of the United States Housing Act of 1937.

142. ***Section 8 covered programs.*** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

143. ***Section 214.*** Section 214 of the Housing and Community Development Act of 1980, as amended.

144. ***Section 214 covered programs.*** The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

145. ***Security deposit.*** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

146. ***Seasonal worker.*** An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

147. ***Set-up charges.*** In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

148. ***Severe deficiency.*** Under NSPIRE, the severe category includes deficiencies that, if evident in the home or on the property, present a high risk of permanent disability, or serious injury or illness, to a resident; or the physical security or safety of a resident or their property would be seriously compromised.

149. ***Sexual assault.*** Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

150. ***Sexual orientation.*** Homosexuality, heterosexuality or bisexuality.

151. ***Shared housing.*** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

152. ***Single person.*** A person living alone or intending to live alone.

153. ***Single room occupancy housing (SRO).*** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

154. ***Small rural public housing agency (PHA).*** Section 38 defines the term "small public housing agency" as a public housing agency "for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer" and "that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations." After consideration of the public comments discussed above, HUD is interpreting "predominantly operates in a rural area" to mean a small PHA that:

    (1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or

    (2) more than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

155. ***Social security number (SSN).*** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

156. ***Special admission.*** Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

157. ***Special housing types.*** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

158. ***Specified welfare benefit reduction.*** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

159. ***Spouse.*** The marriage partner of the head of household.

160. ***Stalking.*** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

161. ***State wage information collection agency (SWICA).*** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

162. ***Subsidy standards.*** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

163. ***Suspension.*** The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling.*

164. ***Tax credit rent.*** With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

165. ***Technological abuse.*** An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as

otherwise permitted by law, that occurs using any form of technology, including but not limited to:

(1) Internet enabled devices

(2) Online spaces and platforms

(3) Computers

(4) Mobile devices

(5) Cameras and imaging programs

(6) Apps

(7) Location tracking devices

(8) Communication technologies

(9) Any other emerging technologies

166. ***Tenancy addendum.*** For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

167. ***Tenant*.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

168. ***Tenant rent to owner.*** See *family rent to owner*.

169. ***Term of lease.*** The amount of time a tenant agrees in writing to live in a dwelling unit.

170. ***Total tenant payment (TTP).*** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

171. ***Unearned income.*** *A*ny annual income, as calculated under 24 CFR 5.609, that is not earned income.

172. ***Unit*.** Under NSPIRE, a unit (or "dwelling unit") of HUD housing refers to the interior components of an individual unit. Examples of components included in the interior of a unit may include the balcony, bathroom, call-for-aid (if applicable), carbon monoxide devices, ceiling, doors, electrical systems, enclosed patio, floors, HVAC (where individual units are provided), kitchen, lighting, outlets, smoke detectors, stairs, switches, walls, water heater, and windows.

173. ***Utilities.*** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

174. ***Utility allowance*.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

175. ***Utility reimbursement*.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

176. ***Utility hook-up charge.*** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

177. ***Very low-income family.*** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

178. ***Veteran.*** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

179. ***Violence Against Women Act (VAWA).*** Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

180. ***Violent criminal activity.*** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

181. ***Voucher*** *(housing choice voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

182. ***Voucher holder.*** A family holding a voucher with an unexpired term (search time).

183. ***Voucher program.*** The housing choice voucher program.

184. ***Waiting list.*** A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

185. ***Waiting list admission.*** An admission from the PHA waiting list.

186. ***Welfare assistance***. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance*

includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that to not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

APPENDIX A: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

HOUSING CHOICE VOUCHER PROGRAM POLICY

Emergency Transfers

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA), the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the public housing and housing choice voucher (HCV) programs are in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar- day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to any PHA office. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

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

2. 2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Emergency Transfers: Housing Choice Voucher (HCV) Program

Housing Connect is concerned about the safety of its residents and program participants in the Housing Choice Voucher (HCV) program, Public Housing (PH) program and the Project Based Voucher (PBV) program. Such concern extends to residents who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA), Housing Connect allows residents who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer move from the resident's current unit to another unit within Housing Connect's three programs mentioned above. The ability to request a transfer move is available regardless of sex, gender identity, or sexual orientation.

The ability of Housing Connect to honor such requests for residents currently receiving assistance, however, may depend upon two things:

- A preliminary determination that the resident is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and
- Whether Housing Connect has another dwelling unit that is available and is safe to offer the resident for temporary or permanent occupancy.

Emergency Transfer Move Timing and Availability

Housing Connect cannot guarantee that a transfer move request will be approved or how long it will take to process a transfer move request. Housing Connect will, however, act as quickly as possible to move a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. Residents can request internal and external transfer moves. Internal transfer moves are moves within the same program. External transfer moves are moves that cross over to a different program. Residents can make these requests simultaneously to allow for the opportunity to move at the earliest possible time.

Internal and external moves can be approved to accommodate for a reasonable accommodation or for a client's safety concern.

- **HCV Residents:** Upon receipt of the Reasonable Accommodation approval or the Transfer Move Request and verification of being a victim of domestic violence, dating violence, sexual assault, or stalking, the HCV specialist will provide the resident with a form to be completed by the resident and their current landlord. The HCV specialist will assist the resident with both internal and external move options.
    - *Internal Transfer Move Options:* The resident will be given a voucher which can be used to locate a new unit within Housing Connect's voucher jurisdiction where the family feels safe. The family can also use the portability feature of the voucher and move to the jurisdiction of any other Public Housing Authority that administers the HCV program.
    - *External Transfer Move Options:* The resident will be given the opportunity to place their name on the waiting list for any of Housing Connect's Public Housing and PBV properties where the family feels safe, even if the waiting list for that property is closed. This placement on the waiting list is done with a preference that will move the family to the top of the list. Housing Connect's Eligibility Department will streamline the eligibility determination process to assist the family with moving as quickly as possible.
- **Public Housing and Project Based Voucher (PBV) Residents:** Upon receipt of the Reasonable Accommodation approval or the Transfer Move Request and verification of being a victim of domestic violence, dating violence, sexual assault, or stalking, the property manager will assist the resident with both internal and external move options.
    - *Internal Transfer Move Options:* The resident will be given the opportunity to place their name on the waiting list for any of Housing Connect's Public Housing and Project Based Voucher (PBV) properties where the family is eligible and would feel safe, even if the waiting list for that property is closed. This placement on the waiting list is done with a preference that will move the family to the top of the list. If a resident reasonably believes a proposed internal transfer would not be safe, the resident may reject the transfer offer and request a transfer to a different unit.

- *External Transfer Move Options:* When voucher funding is available, the resident may request to be placed on the voucher waiting list with an emergency preference, even if the list is closed. With a voucher the family can locate a new unit within Housing Connect's voucher jurisdiction where the family feels safe. The family can also use the portability feature of the voucher and move to the jurisdiction of any other Public Housing Authority that administers the HCV program. Housing Connect's Eligibility Department will streamline the eligibility determination process to assist the family with moving as quickly as possible. If a unit is available, the transferred resident must agree to abide by the terms and conditions that govern occupancy in the unit and program to which the resident has been transferred. Housing Connect may be unable to transfer a resident to a particular unit if the resident has not or cannot establish eligibility for that unit.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at: https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at: https://www.victimsofcrime.org/our-programs/stalkingresource-center.