Housing Authority of the City of Long Beach

Housing Choice Voucher Administrative Plan

EQUAL HOUSING OPPORTUNITY

Effective Date: October 1, 2018

Previous versions are obsolete.

Introduction

REFERENCES CITED IN THE ADMINISTRATIVE PLAN

Chapter 1

OVERVIEW OF THE HOUSING CHOICE VOUCHER PROGRAM

PART I: THE PHA 1-1
1-I.A. Overview 1-1
1-I.B. Organization and Structure of the PHA 1-1
1-I.C. PHA Mission 1-2
1-I.D. The PHA's Programs 1-3
1-I.E. The PHA's Commitment to Ethics and Service 1-3
PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM 1-4
1-II.A. Overview and History of the Program 1-4
1-II.B. HCV program Basics 1-5
1-II.C. The HCV Partnerships 1-5
The HCV Relationships 1-6
What does HUD do? 1-7
What does the PHA do? 1-7
What does the Owner do? 1-7
What does the Family do? 1-8
1-II.D. Applicable Regulations 1-8
PART III: THE HCV ADMINISTRATIVE PLAN 1-9
1-III.A. Overview and Purpose of the Administrative Plan 1-9
1-III.B. Contents of the Administrative Plan 1-9
Mandatory vs. Discretionary Policy 1-10
1-III.C. Organization of the Administrative Plan 1-11
1-III.D. Updating and Revising the Administrative Plan 1-11

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: NONDISCRIMINATION 2-1
2-I.A. Overview 2-1
2-I.B. Nondiscrimination 2-2
Providing Information to Families and Owners 2-3
Discrimination Complaints 2-4
PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES 2-5
2-II.A. Overview 2-5
2-II.B. Definition of Reasonable Accommodation 2-5
Types of Reasonable Accommodations 2-5
2-II.C. Request for an Accommodation 2-6
2-II.D. Verification of Disability 2-6
2-II.E. Approval/Denial of a Requested Accommodation 2-7
2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments 2-8
2-II.G. Physical Accessibility 2-9
2-II.H. Denial or Termination of Assistance 2-9
PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP) 2-10
2-III.A. Overview 2-10
2-III.B. Oral Interpretation 2-11
2-III.C. Written Translation 2-11
2-III.D. Language Access Plan 2-12
PART IV: AFFIRMATIVELY FURTHERING FAIR HOUSING and ASSESSMENT of FAIR HOUSING 2-12
2-IV.A. Overview 2-12
2-IV.B. Affirmatively Furthering Fair Housing 2-12
2-IV.C. City of Long Beach Assessment of Fair Housing 2-13

Exhibit 2-1: Definition of a Person with a Disability Under Federal Civil Rights Laws 2-14

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 3

ELIGIBILITY

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS 3-2
3-I.A. Overview 3-2
3-I.B. Family and Household 3-2
Family 3-2
Household 3-3
3-I.C. Family Breakup and Remaining Family Member 3-3
Family Breakup 3-3
Remaining Member of a Tenant Family 3-3
3-I.D. Head of Household 3-4
3-I.E. Spouse, Co-head and Other Adult 3-4
3-I.F. Dependent 3-4
Joint Custody of Dependents 3-4
3-I.G. Full-Time Student 3-5
3-I.H. Elderly and Near-Elderly Persons and Elderly Family 3-5
Elderly Persons 3-5
Near-Elderly Persons 3-5
Elderly Family 3-5
3-I.I. Persons with Disabilities and Disabled Family 3-5
Persons with Disabilities 3-5
Disabled Family 3-6
3-I.J. Guests 3-6
3.I.K. Foster Children and Foster Adults 3-6
3-I.L. Absent Family Members 3-7
Definitions of Temporarily & Permanently Absent 3-7
Absent Students 3-7
Absences Due to Placement in Foster Care 3-7
Absent Head of Household, Spouse or Co-head 3-8
Members Permanently Confined - Medical Reasons ... 3-8
Return of Permanently Absent Family Members 3-8
3-I.M. Live-in Aide 3-8
PART II: BASIC ELIGIBILITY CRITERIA 3-9
3-II.A. Income Eligibility and Targeting 3-9
Income Limits 3-9
Types of Low-Income families 3-9
Using Income Limits for Eligibility 3-10
Using Income Limits for Targeting 3-11
3-II.B. Citizenship or Eligible Immigration Status 3-11
Declaration 3-11
Mixed Families 3-12
Ineligible Families 3-12
Timeframe for Determining Citizenship Status 3-13

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

3-II.C. Social Security Numbers 3-13
3-II.D. Family Consent to Release of Information 3-14
3-II.E. Students Enrolled In Institutions of Higher Education 3-14
Definitions 3-14
Determining Student Eligibility 3-16
PART III: DENIAL OF ASSISTANCE 3-17
3-III.A. Overview 3-17
Forms of Denial 3-17
Prohibited Reasons for Denial of Assistance 3-17
3-III.B. Mandatory Denial of Assistance 3-18
3-III.C. Other Permitted Reasons for Denial of Assistance 3-19
Criminal Activity 3-19
Previous Behavior in Assisted Housing 3-20
3-III.D. Screening 3-21
Screening for Eligibility 3-21
Screening for Suitability as a Tenant 3-21
3-III.E. Criteria for Deciding to Deny Assistance 3-22
Preponderance of Evidence 3-22
Consideration of Circumstances 3-22
Removal of a Family Member from the Application .. 3-23
Reasonable Accommodation 3-23
3-III.F. Notice of Eligibility or Denial 3-23
3-III.G. Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence and Stalking 3-24
Notification 3-24
Documentation 3-25

Exhibit 3-1: Detailed Definitions Related to Disabilities 3-26
Person with Disabilities 3-26
Individual with Handicaps 3-26

Exhibit 3-2: Definition of Institution of Higher Education 3-28
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937 3-28

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

PART I: THE APPLICATION PROCESS 4-2
4-I.A. Overview 4-2
4-I.B. Applying for Assistance 4-2
4-I.C. Accessibility of the Application Process 4-3
Elderly and Disabled Populations 4-3
Limited English Proficiency 4-3
4-I.D. Placement on the Waiting List..... 4-3
Ineligible for Placement on the Waiting List 4-3
Eligible for Placement on the Waiting List 4-4
PART II: MANAGING THE WAITING LIST 4-4
4-II.A. Overview 4-4
4-II.B. Organization of the Waiting List 4-4
4-II.C. Opening and Closing the Waiting List 4-5
Closing the Waiting List 4-5
Reopening the Waiting List 4-5
4-II.D. Waiting List Outreach 4-6
4-II.E. Reporting Changes in Family Circumstances 4-7
4-II.F. Updating the Waiting List 4-7
Purging the Waiting List 4-7
Removal from the Waiting List 4-8
PART III: SELECTION FOR HCV ASSISTANCE..... 4-8
4-III.A. Overview 4-8
4-III.B. Selection and HCV Funding Sources 4-9
Special Admissions 4-9
Targeted Funding 4-9
Regular HCV Funding 4-9
4-III.C. Selection Method 4-9
Local Preferences 4-9
Waiting List Order 4-10
Local Preference Definitions 4-10
Income Targeting Requirement 4-12
Order of Selection 4-13
4-III.D. Notification of Selection 4-13
4-III.E. The Application Interview 4-14
4-III.F. Completing the Application Process 4-15

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

PART I: BRIEFINGS AND FAMILY OBLIGATIONS 5-1
5-I.A. Overview 5-1
5-I.B. Briefing 5-1
Notification and Attendance 5-2
Oral Briefing 5-2
Briefing Packet 5-3
Additional Items Included in the Briefing Packet 5-4
5-I.C. Family Obligations 5-4
Time Frames for Reporting Changes 5-4
Family Obligations 5-5
PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE 5-8
5-II.A. Overview 5-8
5-II.B. Determining Family Voucher Size 5-8
5-II.C. Exceptions to Subsidy Standards 5-9
5-II.D. Voucher Issuance 5-10
5-II.E. Voucher Term, Extensions and Suspensions 5-10
Voucher Term 5-10
Extensions of Voucher Term 5-11
Suspensions of Voucher Term 5-12
Expiration of Voucher Term 5-12

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Subtitle A, Part 5, Subpart E and Subpart F]

PART I: ANNUAL INCOME 6-1
6-I.A. Overview 6-1
6-I.B. Household Composition and Income 6-2
Summary of Included/Excluded Income by Person 6-2
Temporarily Absent Family Members 6-3
Family Members Permanently Confined - Medical 6-3
Joint Custody of Dependents 6-4
Caretakers for a Child 6-4
6-I.C. Anticipating Annual Income 6-5
Basis of Annual Income Projection 6-5
Projecting Income 6-6
6-I.D. Earned Income 6-7
Types of Earned Income Included 6-7
Types of Earned Income Not Counted 6-7
6-I.E. Earned Income Disallowance 6-9
Eligibility 6-9
Calculation of the Disallowance 6-10
6-I.F. Business Income 6-11
Business Expenses 6-11
Business Expansion 6-11
Capital Indebtedness 6-12
Negative Business Income 6-12
Withdrawal of Cash or Assets from a Business 6-12
Co-owned Businesses 6-12
6-I.G. Assets 6-12
Overview 6-12
General Policies 6-13
Types of Assets 6-16
6-I.H. Periodic Payments 6-19
Periodic Payments Included in Annual Income 6-19
Lump-Sum Payments for the Delayed Start of a Periodic Payment 6-20
Treatment of Overpayment Deductions from Social Security Benefits 6-20
Periodic Payments Excluded from Annual Income 6-20
6-I.I. Payments In Lieu of Earnings 6-21
6-I.J. Welfare Assistance 6-21
Overview 6-21
Sanctions with the Reduction of Welfare Benefits 6-21

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

6-I.K. Periodic and Determinable Allowances 6-22
Alimony and Child Support 6-22
Regular Contributions or Gifts 6-22
6-I.L. Student Financial Assistance 6-23
Financial Assistance Included in Income 6-23
Financial Assistance Excluded from Income 6-24
6-I.M. Additional Exclusions from Annual Income 6-24
PART II: ADJUSTED INCOME 6-26
6-II.A. Introduction 6-26
Overview 6-26
Anticipating Expenses 6-27
6-II.B. Dependent Deduction 6-27
6-II.C. Elderly or Disabled Family Deduction 6-27
6-II.D. Medical Expenses Deduction 6-27
Definition of *Medical Expenses* 6-27
Summary of Allowable Medical Expenses from IRS Publication 502 6-28
Families That Qualify for Both Medical and Disability Assistance Expenses 6-28
6-II.E. Disability Assistance Expenses Deduction 6-28
Earned Income Limit on the Disability Assistance Expense Deduction 6-29
Eligible Disability Expenses 6-29
Necessary and Reasonable Expenses 6-30
Families That Qualify for Both Medical and Disability Assistance Expenses 6-30
6-II.F. Child Care Expense Deduction 6-31
Clarifying the Meaning of *Child* for This Deduction 6-31
Qualifying for the Deduction 6-31
Earned Income Limit on Child Care Expense 6-32
Eligible Child Care Expenses 6-33
PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY 6-34
6-III.A. Overview of Rent and Subsidy Calculations 6-34
Total Tenant Payment (TTP) Formula 6-34
Family Share 6-34
PHA Subsidy 6-34
Utility Reimbursement 6-34
6-III.B. Financial Hardships Affecting Minimum Rent 6-35
Overview 6-35
HUD-Defined Financial Hardship 6-35
Implementation of Hardship Exemption 6-36
6-III.C. Applying Payment Standards 6-38
Overview 6-38
Changes in Payment Standards 6-38
Reasonable Accommodation 6-39

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

6-III.D. Applying Utility Allowances 6-39
Overview 6-39
Reasonable Accommodation 6-40
Utility Allowance Revisions 6-40
6-III.E. Prorated Assistance for Mixed Families 6-40

Exhibit 6-1: Annual Income Inclusions 6-41
HHS Definition of "Assistance" 6-42

Exhibit 6-2: Annual Income Exclusions 6-44

Exhibit 6-3: Treatment of Family Assets 6-47

Exhibit 6-4: Earned Income Disallowance for Persons with Disabilities ... 6-48

Exhibit 6-5: The Effect of Welfare Benefit Reduction 6-50

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 7

VERIFICATION

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

PART I: GENERAL VERIFICATION REQUIREMENTS 7-1
7-I.A. Family Consent to Release of Information 7-1
Consent Forms 7-1
Penalties for Failing to Consent 7-2
7-I.B. Overview of Verification Requirements..... 7-2
HUD's Verification Hierarchy 7-3
Requirements for Acceptable Documents 7-3
File Documentation 7-3
7-I.C. Up-Front Income Verification (UIV) 7-3
HUD's Enterprise Income Verification (EIV) System ... 7-4
Upfront Income Verification Using Non-HUD Systems 7-5
7-I.D. Third-Party Written and Oral Verification 7-5
Written Third-Party Verification 7-5
Written Third-Party Verification Form 7-5
Oral Third-Party Verification 7-6
When Third-Party Verification is Not Required 7-7
7-I.E. Self-Certification 7-7
PART II: VERIFYING FAMILY INFORMATION 7-8
7-II.A. Verification of Legal Identity..... 7-8
7-II.B. Social Security Numbers..... 7-8
7-II.C. Documentation of Age 7-10
7-II.D. Family Relationships..... 7-10
Marriage..... 7-10
Separation or Divorce 7-11
Absence of Adult Member 7-11
foster children and foster adults 7-11
7-II.E. Verification of Student Status 7-11
General Requirements 7-11
Restrictions on Assistance to Students Enrolled in Institutions of Higher Education..... 7-12
7-II.F. Documentation of Disability 7-13
Family Members Receiving SSA Disability Benefits .. 7-13
Family Members Not Receiving SSA Disability Benefits 7-14
7-II.G. Citizenship or Eligible Immigration Status 7-14
Overview 7-14
U.S. Citizens and Nationals 7-14
Eligible Immigrants 7-14
7-II.H. Verification of Preference Status 7-15

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART III: VERIFYING INCOME AND ASSETS 7-17
7-III.A. Earned Income 7-17
Tips 7-17
7-III.B. Business and Self Employment Income 7-17
7-III.C. Periodic Payments & Payments In Lieu of Earnings ... 7-18
Social Security/SSI Benefits 7-18
7-III.D. Alimony or Child Support 7-18
7-III.E. Assets and Income from Assets 7-19
Assets Disposed of for Less than Fair Market Value . 7-19
7-III.F. Net Income from Rental Property..... 7-20
7-III.G. Retirement Accounts 7-20
7-III.H. Income from Excluded Sources 7-21
7-III.I. Zero Annual Income Status 7-21
7-III.J. Student Financial Assistance 7-22
7-III.K. Parental Income of Students Subject to
Eligibility Restrictions 7-22
PART IV: VERIFYING MANDATORY DEDUCTIONS 7-23
7-IV.A. Dependent & Elderly/Disabled Household Deductions. 7-23
Dependent Deduction..... 7-23
Elderly/Disabled Family Deduction 7-23
7-IV.B. Medical Expense Deduction 7-23
Amount of Expense..... 7-24
Eligible Household 7-24
Qualified Expenses 7-24
Unreimbursed Expenses 7-24
Expenses Incurred in Past Years 7-24
7-IV.C. Disability Assistance Expenses 7-25
Amount of Expense..... 7-25
Family Member is a Person with Disabilities 7-25
Family Member(s) Permitted to Work 7-26
Unreimbursed Expenses 7-26
7-IV.D. Child Care Expenses..... 7-26
Eligible Child 7-26
Unreimbursed Expense..... 7-26
Pursuing an Eligible Activity 7-27
Allowable Type of Child Care 7-27
Reasonableness of Expenses 7-27

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens .. 7-28

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR §982, Subpart I and 24 CFR §982.507]

PART I: PHYSICAL STANDARDS 8-1
8-I.A. General HUD Requirements 8-2
HUD Performance and Acceptability Standards 8-2
Tenant Preference Items 8-2
Modifications to Provide Accessibility 8-2
Thermal Environment 8-2
8-I.B. Acceptable HQS Criteria and Additions 8-3
Clarifications of HUD Requirements 8-3
8-I.C. Life Threatening Conditions 8-8
8-I.D. Owner and Family Responsibilities 8-9
Family Responsibilities 8-9
Owner Responsibilities 8-9
8-I-E. Special Requirements for Children with Environmental Intervention Blood Lead Level 8-9
8-I-F. Violation of HQS Space Standards 8-9
PART II: THE INSPECTION PROCESS 8-10
8-II.A. Overview 8-10
Types of Inspections 8-10
Inspection of PHA-owned Units 8-10
Inspection Costs 8-11
Notice and Scheduling 8-11
owner and Family Inspection Attendance 8-11
8-II.B. Initial HQS Inspection 8-11
Timing of Initial Inspections 8-11
Inspection Results and Re-inspections 8-12
Utilities 8-12
Appliances 8-12
8-II.C. Annual HQS Inspections 8-12
Scheduling the Inspection 8-12
8-II.D. Special Inspections 8-13
8-II.E. Quality Control Inspections 8-13
8-II.F. Inspection Results for Units Under HAP Contract 8-13
Notification of Corrective Actions 8-13
Extensions 8-14
Re-inspections 8-14
8-II.G. Enforcing owner Compliance 8-15
HAP Abatement 8-15
HAP Contract Termination 8-15
8-II.H. Enforcing Family Compliance with HQS 8-16

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART III: RENT REASONABLENESS 8-16
8-III.A. Overview 8-16
PHA-owned Units 8-16
8-III.B. Rent Reasonableness Determinations – Required 8-16
Owner-initiated Rent Determinations 8-16
PHA and HUD-Initiated Rent Reasonableness Determinations 8-17
8-III.C. How Comparability Is Established 8-17
Factors to Consider 8-17
Units that Must Not be Used as Comparables 8-18
Rents Charged for Other Units on the Premises 8-18
8-III.D. PHA Rent Reasonableness Methodology 8-18
How Market Data is Collected 8-18
How Rents are Determined 8-18

PART IV: LEAD-BASED PAINT & LEAD SAFE RULE 8-20
8-IV.A. Visual Assessment for Deteriorated Paint 8-20
8-IV.B. HUD's Lead Safe Rule 8-22

Exhibit 8-1: Overview of HUD Housing Quality Standards 8-23

Exhibit 8-2: Summary of Tenant Preference Areas Related to HQS 8-26

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 9

GENERAL LEASING POLICIES

9-I.A. Tenant Screening 9-1
9-I.B. Requesting Tenancy Approval [Form HUD-52517] 9-2
9-I.C. Owner Participation 9-3
9-I.D. Eligible Units 9-4
Ineligible Units 9-4
PHA-owned Units 9-4
Special Housing Types 9-4
Duplicative Assistance 9-4
Housing Quality Standards (HQS) 9-5
Unit Size 9-5
Rent Reasonableness 9-5
Rent Burden 9-5
9-I.E. Lease and Tenancy Addendum 9-6
Lease Form and Tenancy Addendum 9-6
Lease Information 9-6
Term of Assisted Tenancy 9-6
Security Deposit 9-7
Separate Non-Lease Agreements 9-7
PHA Review of Lease 9-8
9-I.F. Tenancy Approval 9-8
9-I.G. HAP Contract Execution 9-10
9-I.H. Changes in Lease or Rent 9-11

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

PART I: MOVING WITH CONTINUED ASSISTANCE 10-1
10-I.A. Allowable Moves 10-1
10-I.B. Restrictions on Moves 10-2
Denial of Moves 10-3
Restrictions on Elective Moves 10-4
10-I.C. Moving Process 10-4
Notification 10-4
Approval 10-5
Reexamination of Family Income and Composition 10-5
Voucher Issuance and Briefing 10-5
Housing Assistance Payments 10-5
PART II: PORTABILITY 10-6
10-II.A. Overview 10-6
10-II.B. Initial PHA Role 10-6
Allowable Moves under Portability 10-6
Determining Income Eligibility 10-8
Reexamination of Family Income and Composition 10-8
Briefing 10-8
Voucher Issuance and Term 10-9
Voucher Extensions and Expiration 10-9
Preapproval Contact with the Receiving PHA 10-10
Initial Notification to the Receiving PHA 10-10
Sending Documentation to the Receiving PHA 10-10
Initial Billing Deadline 10-11
Monthly Billing Payments 10-12
Annual Updates of Form HUD-50058 10-12
Denial or Termination of Assistance 10-12
10-II.C. Receiving PHA Role 10-13
Responding to Initial PHA's Request 10-13
Initial Contact with Family 10-13
Briefing 10-13
Income Eligibility and Reexamination 10-14
Voucher Issuance 10-14
Notifying the Initial PHA 10-15
Administering a Portable Family's Voucher 10-16
Absorbing a Portable Family 10-19

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 11

REEXAMINATIONS

PART I: ANNUAL REEXAMINATIONS [24 CFR §982.516] 11-1
11-I.A. Overview 11-1
11-I.B. Scheduling Annual Reexaminations 11-1
Notification of and Participation in the Annual Reexamination Process 11-2
11-I.C. Conducting Annual Reexaminations 11-3
11-I.D. Determining Ongoing Eligibility of Certain Students ... 11-4
11-I.E. Effective Dates 11-5
PART II: INTERIM REEXAMINATIONS [24 CFR §982.516] 11-6
11-II.A. Overview 11-6
11-II.B. Changes in Family and Household Composition 11-6
New Members Not Requiring Approval 11-6
New Members Requiring Approval 11-7
Departure of a Family or Household Member 11-8
11-II.C. Changes Affecting Income or Expenses 11-8
PHA-Initiated Interim Reexaminations 11-8
Family-Initiated Interim Reexaminations 11-9
11-II.D. Processing the Interim Reexamination 11-10
Method of Reporting 11-10
Effective Dates 11-11
PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT 11-11
11-III.A. Overview 11-11
11-III.B. Payment Standards and Utility Allowances 11-11
Payment Standards 11-11
Subsidy Standards 11-12
Utility Allowances 11-12
11-III.C. Notification of New Family Share and HAP Amount 11-13
11-III.D. Discrepancies 11-13

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE 12-1
12-I.A. Overview 12-1
12-I.B. Family No Longer Requires Assistance 12-1
12-I.C. Family Chooses to Terminate Assistance 12-2
12-I.D. Mandatory Termination of Assistance 12-2
Eviction 12-2
Failure to Provide Consent 12-2
Failure to Document Citizenship 12-3
Failure to Disclose Social Security Numbers 12-3
Methamphetamine Manufacture or Production 12-3
Lifetime Registered Sex Offender 12-4
Failure of Students to Meet Eligibility Requirements 12-4
Death of the Sole Family Member 12-4
12-I.E. Mandatory Policies and Other Authorized Terminations 12-4
PART II: APPROACH TO TERMINATION OF ASSISTANCE 12-8
12-II.A. Overview 12-8
12-II.B. Method of Termination 12-8
12-II.C. Alternatives to Termination of Assistance 12-8
Change in Household Composition 12-8
Repayment of Family Debts 12-9
12-II.D. Criteria for Deciding to Terminate Assistance 12-9
Evidence 12-9
Consideration of Circumstances 12-9
Reasonable Accommodation 12-10
12-II.E. Terminations Related to Domestic Violence,
Dating Violence or Stalking 12-10
Violence Against Women Reauthorization Act (VAWA)
Protections Against Terminations 12-10
12-II.F. Termination Notice 12-13
PART III: TERMINATION OF TENANCY BY THE OWNER 12-14
12-III.A. Overview 12-14
12-III.B. Grounds for owner Termination of Tenancy 12-14
Serious or Repeated Lease Violations 12-14
Violation of Federal, State or Local Law 12-15
Criminal Activity or Alcohol Abuse 12-15
Other Good Cause 12-16
12-III.C. Eviction 12-16
12-III.D. Deciding Whether to Terminate Tenancy 12-17
12-III.E. Effect of Termination on the Family's Assistance ... 12-17

Exhibit 12-1: Statement of Family Obligations 12-18

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 13

OWNERS

PART I: OWNERS IN THE HCV PROGRAM 13-1
13-I.A. owner Recruitment and Retention 13-1
Recruitment 13-1
Retention 13-2
13-I.B. Basic HCV Program Requirements 13-3
13-I.C. Owner Responsibilities 13-4
13-I.D. Owner Qualifications 13-5
Owners Barred from Participation 13-5
Leasing to Relatives 13-5
Conflict of Interest 13-5
Owner Actions That May Result in Disapproval of a Request for Tenancy 13-7
Legal Ownership of Unit 13-8
13-I.E. Non-Discrimination 13-8
PART II: HAP CONTRACTS 13-8
13-II.A. Overview 13-8
13-II.B. HAP Contract Contents 13-8
13-II.C. HAP Contract Payments 13-10
General 13-10
Owner Certification of Compliance 13-10
Late HAP Payments 13-11
Termination of HAP Payments 13-11
13-II.D. Breach of HAP Contract 13-12
13-II.E. HAP Contract Term and Terminations 13-13
13-II.F. Ownership Changes/Assignment of HAP Contract ... 13-13

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 14

PROGRAM INTEGRITY

PART I: PREVENTING, DETECTING and INVESTIGATING ERRORS AND PROGRAM ABUSE 14-1
14-I.A. Preventing Errors and Program Abuse 14-1
14-I.B. Detecting Errors and Program Abuse 14-2
Quality Control and Analysis of Data 14-2
Independent Audits and HUD Monitoring 14-3
Reports of Possible Errors and Program Abuse 14-3
14-I.C. Investigating Errors and Program Abuse 14-3
When the PHA Will Investigate 14-3
Consent to Release of Information 14-3
Analysis and Findings 14-3
Consideration of Remedies 14-4
Notice and Appeals 14-4
PART II: CORRECTIVE MEASURES AND PENALTIES 14-5
14-II.A. Subsidy Under- or Overpayments 14-5
Corrections 14-5
Reimbursement 14-5
14-II.B. Family-Caused Errors and Program Abuse 14-5
Family Reimbursement to PHA 14-6
PHA Reimbursement to Family 14-6
Prohibited Actions 14-6
Penalties for Program Abuse 14-7
14-II.C. Owner-Caused Error or Program Abuse 14-7
Owner Reimbursement to the PHA 14-7
Prohibited owner Actions 14-8
Remedies and Penalties 14-8
14-II.D. PHA-Caused Errors or Program Abuse 14-8
Repayment to the PHA 14-8
PHA Reimbursement to Family or Owner 14-8
Prohibited Activities 14-8
14-II.E. Criminal Prosecution 14-9
14-II.F. Fraud and Program Abuse Recoveries 14-9

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 15

SPECIAL HOUSING TYPES
[24 CFR §982, Subpart M]

PART I: SINGLE ROOM OCCUPANCY 15-1
15-I.A. Overview 15-2
15-I.B. Payment Standard, Utility Allowance and HAP 15-2
15-I.C. Housing Quality Standards (HQS) 15-2
PART II: CONGREGATE HOUSING 15-3
15-II.A. Overview 15-3
15-II.B. Payment Standard, Utility Allowance and HAP 15-3
15-II.C. Housing Quality Standards 15-4
PART III: GROUP HOME 15-4
15-III.A. Overview 15-4
15-III.B. Payment Standard, Utility Allowance and HAP 15-4
15-III.C. Housing Quality Standards 15-5
PART IV: SHARED HOUSING 15-6
15-IV.I. Overview 15-6
15-IV.B. Payment Standard, Utility Allowance and HAP 15-6
15-IV.C. Housing Quality Standards 15-6
PART V: COOPERATIVE HOUSING 15-7
15-V.A. Overview 15-7
15-V.B. Payment Standard, Utility Allowance and HAP 15-7
15-V.C. Housing Quality Standards 15-7
PART VI: MANUFACTURED HOMES 15-8
15-VI.A. Overview 15-8
15-VI.B. Special Policies for Manufactured Homeowners Who Lease A Space 15-8
Family Income 15-8
Lease and HAP Contract 15-8
15-VI.C. Payment Standard, Utility Allowance and HAP 15-8
Payment Standards 15-8
Utility Allowance 15-8
Space Rent 15-9
Housing Assistance Payment 15-9
Rent Reasonableness 15-9
15-VI.D. Housing Quality Standards 15-9

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART VII: HOMEOWNERSHIP 15-9
15-VII.A. Overview 15-9
15-VII.B. Family Eligibility 15-10
15-VII.C. Selection of Families 15-12
15-VII.D. Eligible Units 15-12
15-VII.E. Additional PHA Requirements for Search and Purchase 15-13
15-VII.F. Homeownership Counseling 15-14
15-VII.G. Home Inspections, Contract of Sale and PHA Disapproval of Seller 15-14
Home Inspections 15-14
Contract of Sale 15-15
Disapproval of a Seller 15-16
15-VII.H. Financing 15-16
15-VII.I. Continued Assistance Requirements – Family Obligations 15-17
15-VII.J. Maximum Term of Homeowner Assistance 15-17
15-VII.K. Homeownership Assistance Payments & Expenses 15-18
15-VII.L. Portability 15-21
15-VII.M. Moving with Continued Assistance 15-21
15-VII.N. Denial or Termination of Assistance 15-22
PART VIII: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) 15-22
15-VIII.A. Overview 15-22
15-VIII.B. Non-discrimination & Reasonable Accommodation 15-23
15-VIII.C. Family Eligibility and Selection 15-23
15-VIII.D. Income Eligibility 15-24
15-VIII.E. Initial Search Term for the Voucher 15-24
15-VIII.F. Ineligible Housing 15-24
15-VIII.G. Initial Lease Term 15-25
15-VIII.H. Pre-Contract HQS 15-25
15-VIII.I. Adding Family Members 15-25
15-VIII.J. Termination of Assistance 15-26
15-VIII.K. Mobility and Portability 15-26
15-VIII.L. Case Management Requirements 15-28
15-VIII.M. Turnover of HUD-VASH Vouchers 15-29
15-VIII.N. Moving-to-Work (MTW) Agencies 15-29
15-VIII.O. Project-Based Assistance 15-29
15-VIII.P. Section Eight Management Assessment Program 15-29
15-VIII.Q. Reallocation of HUD-VASH Vouchers 15-29

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 16

PROGRAM ADMINISTRATION

PART I: ADMINISTRATIVE FEE RESERVE 16-2
PART II: SETTING PROGRAM STANDARDS AND SCHEDULES 16-2
16-II.A. Overview 16-2
16-II.B. Payment Standards 16-3
Updating Payment Standards 16-3
Exception Payment Standards 16-4
Unit-by-Unit Exceptions 16-4
"Success Rate" Payment Standard Amounts 16-5
Decreases in the Payment Standard Below 16-5
16-II.C. Utility Allowances 16-6
Air Conditioning 16-6
Reasonable Accommodation 16-6
Utility Allowance Revisions 16-7
PART III: INFORMAL REVIEWS AND HEARINGS 16-7
16-III.A. Overview 16-7
16-III.B. Informal Reviews 16-7
Decisions Subject to Informal Review 16-7
Notice to the Applicant 16-8
Scheduling an Informal Review 16-8
Informal Review Procedures 16-8
Informal Review Decision 16-8
16-III.C. Informal Hearing for Participants 16-9
Decisions Subject to Informal Hearing 16-9
Informal Hearing Procedures 16-10
16-III.D. Hearing and Appeal Provisions for Noncitizens 16-16
Notice of Denial or Termination of Assistance 16-16
USCIS Appeal Process 16-17
Informal Hearing Procedures for Applicants 16-17
Informal Hearing Procedures for Residents 16-19
Retention of Documents 16-19
PART IV: OWNER OR FAMILY DEBTS TO THE PHA 16-19
16-IV.A. Overview 16-19
16-IV.B. Repayment Policy 16-20
Owner Debts to the PHA 16-20
Family Debts to the PHA 16-20
Repayment Agreement 16-20
Repayment Agreement Guidelines for Families ... 16-20
Repayment Agreements with Improper Payments 16-22

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART V: MANAGEMENT ASSESSMENT (SEMAP) 16-22
16-V.A. Overview 16-22
16-V.B. SEMAP Certification [24 CFR §985.101] 16-23
HUD Verification Method 16-23
16-V.C. SEMAP Indicators 16-23
SEMAP Indicators Chart 16-24
PART VI: RECORD KEEPING 16-27
16-VI.A. Overview 16-27
16-VI.B. Record Retention 16-27
16-VI.C. Records Management 16-27
Privacy Act Requirements 16-28
Upfront Income Verification (UIV) Records 16-28
Criminal Records 16-28
Medical/Disability Records 16-29
Documentation of Domestic Violence,
Dating Violence or Stalking 16-29
PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH
ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL 16-29
16-VII.A. Overview 16-29
16-VII.B. Reporting Requirement 16-29
16-VII.C. Data Collection and Record Keeping 16-29
PART VIII: DETERMINATION OF INSUFFICIENT FUNDING 16-30
16-VIII.A. Overview 16-30
16-VIII.B. Methodology 16-30
PART IX: VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT (VAWA):
NOTIFICATION, DOCUMENTATION and CONFIDENTIALITY .. 16-30
16-IX.A. Overview 16-30
16-IX.B. Definitions 16-31
16-IX.C. Notification 16-32
Notification to Public 16-32
Notification to Applicants and Participants 16-32
Notification to owners and Managers 16-33
16-IX.D. Documentation 16-33
Conflicting Documentation 16-34
Discretion to Require No Formal Documentation . 16-34
16-IX.E. CONFIDENTIALITY 16-35

Exhibit 16-1: Notice to Housing Choice Voucher Applicants and Tenants:
Violence Against Women Reauthorization Act (VAWA) 16-36

Exhibit 16-2: Sample Notice to Housing Choice Voucher Owners and Managers:
Violence Against Women Reauthorization Act (VAWA) 16-39

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 17

PROJECT-BASED VOUCHERS

PART I: GENERAL REQUIREMENTS 17-2
17-I.A. Overview 17-2
17-I.B. Tenant-Based vs. Project-Based Vouchers 17-2
17-I.C. Relocation Requirements 17-2
17-I.D. Equal Opportunity Requirements 17-3
PART II: PBV OWNER PROPOSALS 17-3
17-II.A. Overview 17-3
17-II.B. Owner Proposal Selection Procedures 17-3
Solicitation and Selection of PBV Proposals 17-4
PHA-owned Units 17-6
PHA Notice of Owner Selection 17-7
17-II.C. Housing Type 17-7
17-II.D. Prohibition of Assistance for Certain Units 17-8
Ineligible Housing Types 17-8
Subsidized Housing 17-8
17-II.E. Subsidy Layering Requirements 17-8
17-II.F. Cap on Number of PBV Units in Each Project 17-9
25 Percent per Project Cap 17-9
Exceptions to 25 Percent per Project Cap 17-9
Promoting Partially-Assisted Buildings 17-10
17-II.G. Site Selection Standards Compliance 17-10
Compliance with PBV Goals, Civil Rights Requirements and HQS Site Standards 17-10
Existing and Rehabilitated Housing Sites 17-11
New Construction Sites 17-12
17-II.H. Environmental Review 17-12
PART III: DWELLING UNITS 17-13
17-III.A. Overview 17-13
17-III.B. Housing Quality Standards 17-13
Lead-Based Paint 17-13
17-III.C. Housing Accessibility for Persons with Disabilities.. 17-13
17-III.D. Inspecting Units 17-14
Pre-selection Inspection 17-14
Pre-HAP Contract Inspections 17-14
Turnover Inspections 17-14
Biennial Inspections 17-14
Other Inspections 17-14
Inspecting PHA-owned Units 17-15
PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS 17-15
17-IV.A. Overview 17-15

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

17-IV.B. Agreement to Enter into HAP Contract 17-15
Content of the Agreement 17-15
Execution of the Agreement 17-16
17-IV.C. Conduct of Development Work 17-16
Labor Standards 17-16
Equal Opportunity 17-16
Owner Disclosure 17-17
17-IV.D. Completion of Housing 17-17
Evidence of Completion 17-17
PHA Acceptance of Completed Units 17-17
PART V: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT 17-18
17-V.A. Overview 17-18
17-V.B. HAP Contract Requirements 17-18
Contract Information 17-18
Execution of the HAP Contract 17-18
Term of HAP Contract 17-19
Remedies for HQS Violations 17-20
17-V.C. Amendments to the HAP Contract 17-20
Substitution of Contract Units 17-20
Addition of Contract Units 17-21
17-V.D. HAP Contract Year, Anniversary & Expiration Date . 17-21
17-V.E. Owner Responsibilities Under the HAP 17-21
17-V.F. Additional HAP Requirements 17-22
Housing Quality and Design Requirements 17-22
Vacancy Payments 17-22
PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS 17-23
17-VI.A. Overview 17-23
17-VI.B. Eligibility for PBV Assistance 17-23
In-Place Families 17-23
17-VI.C. Organization of the Waiting List 17-24
17-VI.D. Selection from the Waiting List 17-24
Income Targeting 17-24
Units with Accessibility Features 17-24
Preferences 17-24
17-VI.E. Offer of PBV Assistance 17-25
Refusal of Offer 17-25
Disapproval by Landlord 17-26
Acceptance of Offer 17-26
17-VI.F. Owner Selection of Tenants 17-26
Leasing 17-26
Filling Vacancies 17-26
Reduction in Contract Units Due to Vacancies 17-27
17-VI.G. Tenant Screening 17-27
PHA Responsibility 17-27
Owner Responsibility 17-28

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART VII: OCCUPANCY 17-28
17-VII.A. Overview 17-28
17-VII.B. Lease 17-28
Form of Lease 17-28
Lease Requirements 17-29
Tenancy Addendum 17-29
Initial Term and Lease Renewal 17-29
Changes in the Lease 17-29
Owner Termination of Tenancy 17-30
Security Deposits 17-30
17-VII.C. Moves 17-31
Overcrowded, Under-occupied & Accessible Units 17-31
Family Right to Move 17-32
17-VII.D. Exceptions to the Occupancy Cap 17-32
PART VIII: DETERMINING RENT TO OWNER 17-33
17-VIII.A. Overview 17-33
17-VIII.B. Rent Limits 17-33
Certain Tax Credit Units 17-33
Use of FMRs, Exception Payment Standards,
and Utility Allowances 17-34
Redetermination of Rent..... 17-35
17-VIII.C. Reasonable Rent 17-36
Required Rent Reasonable Determinations..... 17-36
How to Determine Reasonable Rent 17-36
Owner Certification of Reasonable Rent 17-37
17-VIII.D. Effect of Other Subsidy and Rent Control 17-37
Other Subsidy 17-37
PART IX: PAYMENTS TO OWNER 17-38
17-IX.A. Housing Assistance Payments 17-38
17-IX.B. Vacancy Payments 17-38
17-IX.C. Tenant Rent to Owner..... 17-39
Tenant and PHA Responsibilities 17-39
Utility Reimbursements 17-39
17-IX.D. Other Fees and Charges 17-40
Meals and Supportive Services 17-40
Other Charges by Owner 17-40

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING GL-1
B. GLOSSARY OF SUBSIDIZED HOUSING TERMS GL-3

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Introduction

REFERENCES CITED IN THE ADMINISTRATIVE PLAN

AUTHORITIES IN THE ADMINISTRATIVE PLAN

Authority for Public Housing Agency (PHA) policies is derived from many sources. Primary among these sources are regulations and guidance issued by the U.S. Department of Housing and Urban Development (HUD). State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy.

U.S. Department of Housing and Urban Development (HUD)

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

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a "safe harbor."

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on HUD's website can provide direction on the application of federal regulations to a specific pattern.

State Law

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

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

RESOURCES CITED IN THE ADMINISTRATIVE PLAN

The Administrative Plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. The following is a key to abbreviations and a list of PHA resources used for various resources that are frequently cited in the Administrative Plan.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Abbreviations

Abbreviations are used to designate certain documents in citations. The following is a table of abbreviations cited in the Administrative Plan.

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G)

List of PHA Resources

Code of Federal Regulations
Dept. of Housing and Urban Development (HUD): https://www.hud.gov/
HUD's Client Information Policy Systems (HUDCLIPS): https://www.hud.gov/program_offices/administration/hudclips
Federal Register: U.S. Department of Housing and Urban Development (HUD)
Housing Choice Voucher (HCV) Guidebook (7420.10G)
HUD-50058 Instruction Booklet (IB)
HUD's Enterprise Income Verification (EIV) System
Joint Statement of the Departments of Housing and Urban Development and Justice – Reasonable Accommodations Under the Fair Housing Act
Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons (December 19, 2003)
Notice PIH 2010-26: Nondiscrimination and Accessibility for Persons with Disabilities
Project-Based Voucher program webpage
Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions (FAQ)
Verification Guidance - March 2004 (Notice PIH 2004-01 Attachment)
Violence Against Women Reauthorization Act of 2013 (VAWA) Final Rule

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 1

OVERVIEW OF THE HOUSING CHOICE VOUCHER PROGRAM

INTRODUCTION

As a Public Housing Agency (PHA), the Housing Authority of the City of Long Beach (HACLB) receives funding for the Housing Choice Voucher (HCV) program from the U.S. Department of Housing and Urban Development (HUD). HACLB is not a federal department or agency. A Public Housing Agency is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. HACLB enters into an Annual Contributions Contract (ACC) with HUD to administer the HCV program. HACLB ensures compliance with federal laws, regulations and notices and establishes policies and procedures to clarify federal requirements to ensure consistency in program operation.

This chapter contains information about HACLB's programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the Administrative Plan.

There are three parts to this chapter:

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

PART I: THE PUBLIC HOUSING AGENCY (PHA)

1-I.A. OVERVIEW

This part explains the origin of the PHA's creation and authorization, the general structure of the organization and the relationship between the PHA Board and staff.

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

The Housing Choice Voucher (HCV) program is funded by the federal government and administered by the Housing Authority of the City of Long Beach (HACLB) for the jurisdiction of city of Long Beach in the County of Los Angeles, California.

The officials of a PHA are known as commissioners or, collectively, as the Board of Commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The Board of Commissioners is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability. Formal actions of the PHA are taken through written resolutions, adopted by the Board of Commissioners and entered into the official records of the PHA.

The principal staff member of the PHA is the Executive Director (ED). The Executive Director 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 PHA's staff in order to manage the day-to-day operations to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Executive Director's duties include budgeting and financial planning for the agency.

PHA Policy

The Board of Commissioners and HACLB's Executive Director have delegated the management of the day-to-day operations of the PHA to HACLB's Deputy Executive Director. The Deputy Executive Director acts as the Bureau Manager.

1-I.C. PHA MISSION

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

PHA Policy

The mission of Housing Authority of the City of Long Beach (HACLB) is to provide high quality housing assistance to low-income households in Long Beach through:

- Effectively and efficiently utilizing resources;
- Promoting a positive image through excellent customer service and clear and open communication; and,
- Continually educating staff and clients.

1-I.D. THE PHA'S PROGRAMS

HACLB administers the following programs:

PHA Policy

HACLB's Administrative Plan addresses policies for the HCV program and the following special programs:

- Homeownership
- Veterans Affairs Supportive Housing (VASH)
- Family Self-Sufficiency (FSS) program: HCV policies apply, along with the FSS Action Plan, which addresses specific FSS operations.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HACLB also administers the following non-Public and Indian Housing (PIH) programs:

- Housing Opportunities for Persons with AIDS (HOPWA): dedicated to the housing needs of people living with HIV/AIDS.
- HUD's Continuum of Care (CoC) program, formerly Shelter Plus Care. If there is a conflict between HACLB's Administrative Plan and HUD's COC regulations, Title 24, Part 578 shall prevail.

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

As a public housing agency, HACLB is committed to providing excellent service to HCV program applicants and participants. HACLB's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe and sanitary 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 the 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 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 the PHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer a high-performing agency through continuous improvement of HACLB's support systems and commitment to our employees and their development.

HACLB 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.

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the audience in understanding the program.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.
Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality ("housing quality standards") and was within certain HUD-established rent limitations ("Fair Market Rents"), the families received rental assistance in the housing unit. The family's contribution to rent was generally set at 30 percent of the family's adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, however, there was no Fair Market Rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, PHAs managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as "conforming" rules, to more closely align the two housing programs, to the extent permitted by law.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for housing costs.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

1-II.B. HCV PROGRAM BASICS

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

The HCV program offers mobility to eligible families because their search for suitable housing may be anywhere in the PHA's jurisdiction and may also be eligible to move under portability to another PHA's jurisdiction.

When a family is determined eligible for the HCV program and funding is available, the PHA issues a Voucher. When the family finds a suitable housing unit, the PHA enters into a contract with the owner and the family enters into a lease with the owner. The PHA and the family make their respective payments to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the HCV program, the owner has the responsibility of approving the family as a suitable tenant. The PHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

1-II.C. THE HCV PARTNERSHIPS

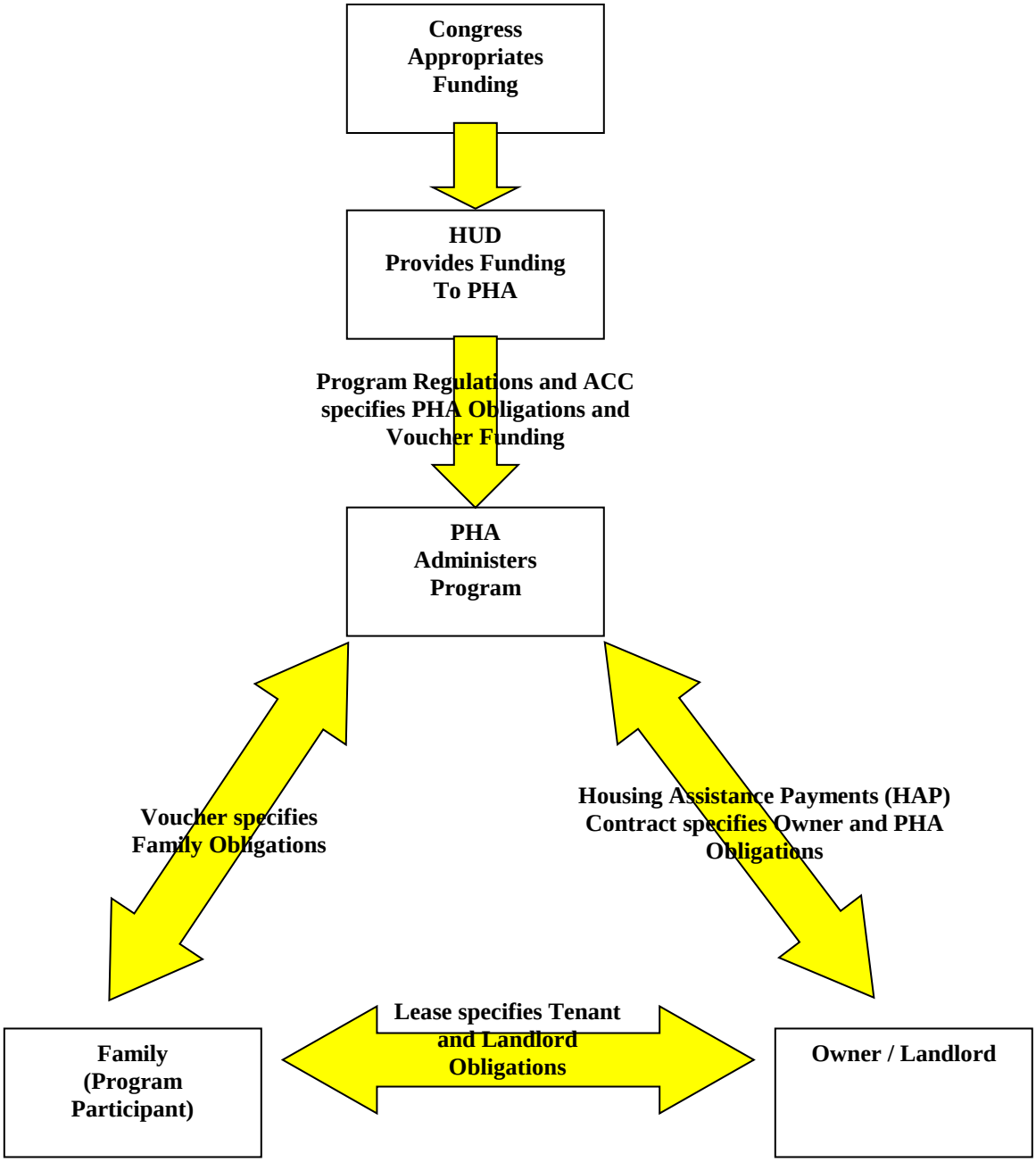
To administer the HCV program, the PHA enters into a contractual relationship with HUD. The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the PHA, the owner and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The chart on the following page illustrates key aspects of these relationships.

The HCV Relationships:



© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

What does HUD do?
HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What does HACLB do?
HACLB administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the HCV program;
- Maintain waiting list and select families for admission;
- Issue Voucher to eligible applicants and, if necessary, assists Voucher holders in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;
- Ensure that families and owners comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity laws, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's Administrative Plan and applicable federal, state and local laws.

What does the Owner do?
The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if the owner's tenancy requirements are met.
  - The PHA can provide some information to the owner, however, the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the lease.

What does the Family do?
The family has the following responsibilities:

- Provide the PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program;
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
- Attend all appointments scheduled by the PHA;
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the Voucher;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the PHA and the owner before moving or terminating the lease;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease or have any interest in the unit;
- Promptly notify the PHA of any changes in family composition;
- Not commit fraud, bribery or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled effectively.

1-II.D. APPLICABLE REGULATIONS
Applicable regulations include:

- 24 CFR, Part 5, General HUD Program Requirements
- 24 CFR, Part 8 – Non-Discrimination Based on Handicap in HUD Programs
- 24 CFR, Part 35 – Lead-Based Paint (LBP) Poisoning Prevention
- 24 CFR, Part 982 – Section 8 Tenant-Based: Housing Choice Voucher Program
- 24 CFR, Part 983 – Project-Based Vouchers
- 24 CFR, Part 985 – Section Eight Management Assessment Program (SEMAP)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART III: THE HCV ADMINISTRATIVE PLAN

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

The Administrative Plan is required by HUD. The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in HACLB's Public Housing Agency (PHA) Plan. This Administrative Plan is a supporting document to the PHA Plan and is available for public review as required by 24 CFR Part 903.

This Administrative Plan is set forth to define the PHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

The PHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this Plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of PHA staff shall be in compliance with the PHA's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

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

HUD regulations contain a list of what must be included in the Administrative Plan. The PHA Administrative Plan must cover PHA policies on these subjects:

- Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list and procedures for closing and reopening the PHA waiting list (Chapter 4);
- Issuing or denying Vouchers, including PHA policy governing the Voucher term and any extensions or suspensions of the Voucher term. 'Suspension' means stopping the clock on the term of a family's Voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the Voucher term, the PHA Administrative Plan must describe how the PHA determines whether to grant extensions or suspensions and how the PHA determines the length of any extension or suspension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g. desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 24 CFR §982.553 (Chapters 3 and 12);

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Encouraging participation by owners of suitable units located outside areas of low-income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy Standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising Voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning Special Housing types in the program (e.g. use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim Reexaminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the Board of Commissioners or other authorized officials to charge the Administrative Fee Reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- PHA screening of applicants for family behavior/suitability for tenancy (Chapter 3).

Mandatory vs. Discretionary Policy
HUD makes a distinction between:

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

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The PHA's Administrative Plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides a PHA with a "safe harbor". HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, however, PHAs should carefully think through those decisions.

1-III.C. ORGANIZATION OF THE ADMINISTRATIVE PLAN

The Administrative Plan is organized to provide information to users in particular areas of operation.

1-III.D. UPDATING AND REVISING THE ADMINISTRATIVE PLAN

The PHA will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by HACLB's Board of Commissioners, the pertinent sections included in the Public Housing Agency (PHA) Plan and a copy provided to HUD.

PHA Policy

HACLB will review and update the Administrative Plan at least once a year and more often if needed, to reflect changes in regulations, PHA operations or when needed to ensure staff consistency in program management.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains laws and U.S. Department of Housing and Urban Development (HUD) regulations that require the Housing Authority of the City of Long Beach (HACLB) to affirmatively further civil rights and fair housing in federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further non-discrimination pertains to all areas of HACLB's Housing Choice Voucher (HCV) program and other agency operations.

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of Public Housing Agencies (PHAs) regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the HCV program related to Reasonable Accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42 U.S.C.) and Section 504 of the Rehabilitation Act of 1973 and incorporate guidance from the Joint Statement of the Department of HUD and Justice, issued May 17, 2004, (Reasonable Accommodations Under the Fair Housing Act).

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of PHAs to ensure meaningful access to the HCV program and its activities by persons with Limited English Proficiency (LEP).

Part IV: Affirmatively Furthering Fair Housing and Assessment of Fair Housing.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status and disability. In addition, fair housing protections are provided through HUD's Equal Access Rule, California state laws, e.g. Fair Employment and Housing Act (FEHA) and The Unruh Civil Rights Act that prohibit discrimination based on: sexual orientation, gender identity, ancestry, genetic information, marital status, source of income, citizenship, primary language, immigration status and age.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HACLB will fully comply with all federal, state and local nondiscrimination laws and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063 – Equal Opportunity in Housing
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (as applicable, otherwise Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Amendments govern)
- Joint Statement of the Department of HUD and the Department of Justice, issued May 17, 2004, (Reasonable Accommodations Under the Fair Housing Act).
- Final Rule: Violence Against Women Reauthorization Act of 2013 (VAWA)
- Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule (published in the *Federal Register* – February 3, 2012)
- Equal Access in Accordance with Gender Identity Final Rule (published in the *Federal Register* – September 21, 2016)
- Additional protections, if adopted by the federal government, State legislature and/or the City of Long Beach, extending source of income protections to Section 8 Housing Choice Voucher holders and other recipients of third-party housing subsidies, e.g. Veterans Affairs Supportive Housing (VASH).

When more than one civil rights law applies to a situation, the laws will be read and applied together. Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants or staff that may subsequently be enacted will also apply.

PHA Policy

In addition to federal laws, California fair housing laws apply, including, but not limited to:

- Fair Employment and Housing Act (FEHA) (Gov. Code. §12900 et seq.)
- The Unruh Civil Rights Act
- California Government Code 12955 – Prohibited Housing Discrimination

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

2-I.B. NONDISCRIMINATION

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

HACLB shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes"). Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women and people securing custody of children under the age of 18.

HACLB will not discriminate on the basis of marital status, gender identity or sexual orientation. [Equal Access to Housing in HUD Programs Final Rule (February 3, 2012)]

HACLB will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the HCV program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because of relation to are association with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes members of a protected class

Providing Information to Families and Owners

PHAs must take steps to ensure that families and owners are fully aware of civil rights laws. As part of the briefing process, HACLB must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods. [24 CFR §982.301]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The Housing Assistance Payments 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.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by HACLB or an owner, the family should advise HACLB. HUD requires HACLB to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, HACLB is required to provide the applicant or participant with information about how to file a discrimination complaint. [24 CFR §982.304]

Upon receipt of a housing discrimination complaint, HACLB is required to:

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

PHA Policy

Applicants or participants who believe unlawful discrimination by HACLB or an owner has occurred may notify HACLB either orally or in writing.

Within fifteen (15) business days of receiving the complaint, HACLB will provide a written notice to those alleged to have violated the rule. HACLB will also send a written notice to the complainant informing them that notice was sent, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

HACLB will attempt to remedy discrimination complaints made against HACLB and will conduct an investigation into all allegations of discrimination. Within fifteen (15) business days following the conclusion of HACLB's investigation, HACLB will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

HACLB will keep a record of all complaints, investigations, notices and corrective actions. (see Chapter 16)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make Reasonable Accommodations in rules, policies, practices or services when such accommodation may be necessary to afford a person with a disability an equal opportunity to use and enjoy a program or dwelling under the HCV program. PHAs must ensure that persons with disabilities have full access to programs and services. This responsibility begins with the first inquiry of an interested person and continues through every programmatic area of the HCV program.

PHA Policy
Contact information will be provided for requests for accommodation for persons with disabilities. HACLB will inform all applicants and participants in writing, on the intake application, reexamination documents and notices of adverse action by including the following language:

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

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of Reasonable Accommodations PHAs provide include changes, exceptions or adjustments to a rule, policy, practice or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if the request does not create an "undue financial and administrative burden" for PHAs 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 the PHA's operations.

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

- Permitting applications and reexaminations to be completed by mail;
- Conducting home visits;
- Using higher Payment Standards (either within the acceptable range or with HUD approval of a Payment Standard outside HACLB range) if HACLB determines this is necessary to enable a person with disabilities to obtain a suitable housing unit;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit;
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HACLB staff;
- Displaying posters and other housing information in locations throughout HACLB's office in such a manner as to be easily readable from a wheelchair.

2-II.C. REQUEST FOR A REASONABLE 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 PHAs to treat the information as a request for a Reasonable Accommodation, even if no formal request is made. [Joint Statement of the Department of HUD and Justice: Reasonable Accommodations Under the Fair Housing Act]

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

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

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

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a Reasonable Accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and allowances.

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

If a person's disability is obvious or otherwise known to the PHA and if the need for the requested accommodation is also readily apparent or known, no further verification will be required. [Joint Statement of the Department of HUD and Justice: Reasonable Accommodations Under the Fair Housing Act]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

When verifying a disability, HACLB will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability. [Joint Statement of the Department of HUD and Justice: Reasonable Accommodations Under the Fair Housing Act]

- HACLB will only request information that is necessary to evaluate the disability-related need for the accommodation. HACLB will not inquire about the nature or extent of any disability.

- Medical records will not be accepted or retained in the participant file.

In the event that HACLB receives confidential information about a person's disability, HACLB will dispose of it. In place of the information, HACLB will note in the file that the disability and other requested information was verified, the date the verification was received and the name and address of the knowledgeable professional who sent the information. [Notice PIH 2010-26]

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Department of HUD and Justice: Reasonable Accommodations Under the Fair Housing Act and HUD Notice PIH 2010-26: Non-Discrimination and Accessibility for Persons with Disabilities]

PHAs must approve a request for accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability.

- There is a disability-related need for the accommodation.

- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on HACLB or fundamentally alter the nature of HACLB's HCV operations (including the obligation to comply with HUD requirements and regulations).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Requests for accommodations are assessed on a case-by-case basis, taking into account factors such as the overall size of HACLB'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.

Before making a determination whether to approve a request, HACLB may enter into discussion and negotiation with the family, request more information from the family or may require the family to sign a consent form so that HACLB may verify the need for a requested accommodation.

PHA Policy

After a request for an accommodation is presented, HACLB will respond, in writing, within 30 calendar days.

If HACLB 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 HACLB's operations), HACLB will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If HACLB believes that the family has failed to identify an alternative reasonable accommodation after interactive discussion and negotiation, HACLB will notify the family, in writing, of its determination within 30 calendar days from the date of the most recent discussion or communication with the family.

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR §8.6 Communications]

HUD regulations require PHAs to ensure that persons with disabilities related to hearing and vision have Reasonable Access to its programs and services. HACLB shall inform all applicants, at the initial point of contact, of alternative forms of communication that can be used other than plain language paperwork.

PHA Policy

To meet the needs of persons with hearing impairments, TTD (text telephone display) or TTY (teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print 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 HACLB staff, one-on-one assistance will be provided upon request. One-on-one assistance will also be provided to clients who need assistance with documents.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

2-II.G. PHYSICAL ACCESSIBILITY

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- HUD Notice PIH 2010-26: Non-Discrimination and Accessibility for Persons with Disabilities;
- Section 504 of the Rehabilitation Act of 1973;
- Americans with Disabilities Act of 1990 (ADA);
- The Architectural Barriers Act of 1968; and
- The Fair Housing Amendments Act of 1988.

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

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

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

When applicants with disabilities are denied assistance, the notice of denial must include the PHA's Informal Review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request Reasonable Accommodations to participate in the Informal Hearing process.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

When a participant family's assistance is terminated, the notice of termination must inform them of the PHA's Informal Hearing process and their right to request a hearing and Reasonable Accommodation.

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

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

2-III.A. OVERVIEW

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

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, FR-4878-N-02, published January 22, 2007, in the *Federal Register*.

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

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

In order to determine the level of access needed by LEP persons, HACLB will balance the following four factors:

1. the number or proportion of LEP persons eligible to be served or likely to be encountered by the HCV program;

2. the frequency with which LEP persons come into contact with the program;

3. the nature and importance of the program, activity or service provided by the program to people's lives; and

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

4. the resources available to HACLB and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on HACLB.

2-III.B. ORAL INTERPRETATION

In any meeting, telephone call, courtroom, hearing or other situations in which health, safety or access to important information, benefits and/or services are at stake, HACLB will ensure that an LEP family is provided a free, qualified interpreter.

PHA Policy

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

Where feasible, HACLB will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other city departments or HACLB and will standardize documents.

When LEP persons desire, an interpreter of their choosing may be used, at their own expense, in place of or as a supplement to the free language services offered by HACLB. The interpreter may be a family member or friend. Children and minors should not be used as interpreters.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

PHA Policy

In order to comply with written-translation obligations, HACLB will take the following steps:

HACLB will provide written translations of vital documents for each eligible LEP language group that constitutes five (5) percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. HACLB will also provide written translations of vital documents in Spanish, Khmer and Tagalog, upon request, in compliance with the city of Long Beach's Language Access Policy.

Translation of other documents, if needed, can be provided orally. However, HACLB does not translate vital written materials if there are fewer than 50 persons in a language group, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

2-III.D. IMPLEMENTATION PLAN [HUD Final Guidance FR-4878-N-02]

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by Limited English Proficiency (LEP) persons. In order to determine whether it is necessary to develop a written Language Access Plan (LAP) to address the identified needs of LEP populations, PHAs use a four-factor analysis.

The four-factor analysis consists of the following:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. The frequency with which LEP persons come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and
4. The resources available to the grantee/recipient and costs.

PHA Policy

In developing a Language Access Plan (LAP), the following steps will be taken:

- identify LEP individuals who need language assistance;
- identify language assistance measures;
- train housing staff;
- provide notice to LEP persons;
- align the LAP with the City of Long Beach's Language Access Policy; and
- monitor and update the Language Access Plan (LAP).

Entities that work with LEP persons, e.g. schools, grassroots/faith-based organizations and community groups will be contacted for input into this process.

PART IV: AFFIRMATIVELY FURTHERING FAIR HOUSING AND ASSESSMENT OF FAIR HOUSING

2-IV.A. OVERVIEW

From its inception, the Fair Housing Act not only prohibited discrimination in housing related activities and transactions, but also imposed a duty to Affirmatively Further Fair Housing (AFFH). HUD's AFFH rule sets out a framework for PHAs to take meaningful actions to overcome historic patterns of segregation, promote fair housing choice and foster inclusive communities that are free from discrimination.

HUD's Affirmatively Furthering Fair Housing (AFFH) Rule includes a requirement for PHAs to conduct an Assessment of Fair Housing (AFH). The AFH planning process helps communities analyze challenges to fair housing choice and establishes goals and priorities to address fair housing barriers within the community.

For purposes of the AFFH rule, meaningful actions "means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity."

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

2-IV.B. Affirmatively Furthering Fair Housing

HUD's Affirmatively Furthering Fair Housing rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The duty to affirmatively further fair housing extends to all of HACLB's activities and programs relating to HUD.

1. In July 2015, HUD published a Final Rule for Affirmatively Furthering Fair Housing that clarifies the obligations for HUD funding recipients to:

   - Analyze HACLB's fair housing landscape; and
   - Set locally-determined fair housing priorities and goals through an Assessment of Fair Housing (AFH).

2. HACLB will conduct annual planning and review admissions policies to:

   - Examine existing and proposed housing programs;
   - Identify any impediments to fair housing choice within those programs;
   - Address impediment(s) in a reasonable fashion in view of the resources available;
   - Work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require HACLB's involvement; and
   - Maintain records reflecting these analyses and actions.

2-IV.C. City of Long Beach Assessment of Fair Housing

The City of Long Beach conducted an Assessment of Fair Housing (AFH) through the collection of community input and the analyses of HUD-provided and supplemental data. The City of Long Beach identified fair housing issues that affect individual and household access to housing in the city. Through this process, the leading contributing factors to these fair housing issues have also been identified. Furthermore, goals and milestones were developed to address each fair housing issue and the related contributing factors.

The City of Long Beach's Assessment of Fair Housing (AFH) was adopted by the City Council on December 13, 2016. The Assessment of Fair Housing is required by HUD. The AFH identifies the city's fair housing issues, determined the factors that significantly contribute to identified issues, and set fair housing goals to overcome these concerns. While high-quality data and thorough analyses are a central part of the AFH, the value of community participation and input received through a series of outreach events, surveys, stakeholder meetings, and interviews conducted over nine months was key in developing the AFH. The goals identified in the AFH will inform the strategies and actions of the upcoming 2018-2022 Consolidated Plan, including associated Annual Action Plans.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts §8.3 and §100.201]

A person with a disability, as defined under the Federal Civil Rights Laws, is a 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 definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a Reasonable Accommodation.

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

The HUD definition of a person with a disability (24 CFR §5.403) is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the Disabled Family preference, the $400 elderly/disabled household deduction, the $480 dependent deduction, the allowance for medical expenses or the allowance for disability assistance expenses.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 3

ELIGIBILITY

INTRODUCTION

The Housing Authority of the City of Long Beach (HACLB) is responsible for ensuring that all persons admitted to the Housing Choice Voucher (HCV) program meet program eligibility requirements. This chapter contains three parts:

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

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

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct that can cause HACLB to deny assistance.

To be eligible for the HCV program, applicants must meet the following requirements:

- **Verification of Waiting List Status (Chapter 4-III.C).** HACLB staff will verify local preference(s) and eligibility for assistance under HUD's 75% Selection Rule.
- **Family Definition (3-I.B & 3-I.E).** Applicants must meet HACLB's definition of a "family" and college students require additional review. (24 CFR §5.403)
- **Income Limits (3-II.A).** Annual income must be at or below HUD's established income limits for the family size and program requirements. Please note: College students require additional review. (24 CFR §982.201(b))
- **Citizenship/Eligible Immigration Status (3-II.B).** Applicants must qualify on the basis of citizenship or eligible immigration status. (24 CFR, Subpart E)
- **HCV program Compliance (3-II.C-D & 3-III.C.1-6).** All family members must comply with HCV program requirements and consent to HACLB's use of information. (24 CFR, Subtitle B, Chapter IX, Part 982, Subpart L)
- **No Outstanding Public Housing Agency (PHA) Debts (3-III.C.7).** Adult applicants must be free of debts to any PHA or must be current with a Repayment Agreement to any PHA.
- **Criminal Background Check (3-III.B–C).** All adult members must pass HACLB's criminal background check. (24 CFR, Subtitle B, Chapter IX, Part 982, Subpart L)
- **Previous Behavior in Assisted Housing (3-III.C).** All adult family members must not have violated any family Obligation during previous program participation within three (3) years prior to final eligibility determination.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR §100.201(c), HUD-50058-I page 13, and Equal Access in Accordance with Gender Identity Final Rule (FR 5863-F-02)]

Please Note: The term "family" is used throughout this Plan to identify program participant(s) under the HCV program, in lieu of participant and/or HCV recipient.

Family Definition

Each applicant for assistance under the HCV program must meet the PHA's definition of family. Within guidelines provided by HUD, a PHA has discretion in its definition of what constitutes a family. PHAs are responsible for defining family in its Administrative Plan and PHAs must include HUD's guidelines in its definition of family.

Family includes, but is not limited to, the following, **regardless of actual or perceived sexual orientation, gender identity, or marital status:**

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
2. A group of persons residing together, and such group includes, but is not limited to:
   a. A family with or without children (a child who is temporarily away because of placement in foster care is considered a member of the family);
   b. An elderly family;
   c. A near-elderly family;
   d. A disabled family;
   e. A displaced family;
   f. The remaining member of a tenant family; and

PHA Policy

3. The head of household must be at least 18 years of age or emancipated; and
4. A family also includes two or more individuals who are not related by blood, marriage, adoption or other operation of law, but who can either 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 family at the time of application and must update this information if the family's composition changes.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Household
Household is a broader term that includes additional people who live in an assisted unit, e.g. live-in aides, foster children and foster adults with HACLB's approval.

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

Family Breakup [24 CFR §982.315]
Except under the following conditions, HACLB has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence or stalking, HACLB must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence and stalking, see section 16-IX.D of this Plan.)

- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, HACLB is bound by the court's determination of which family members continue to receive assistance.

  PHA Policy
  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 addition, if a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

  In the absence of a judicial decision or an agreement among the original family members, HACLB will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, HACLB will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly or Disabled family members; (3) the interest of any family member who is the victim of domestic violence, dating violence or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR §5.403]
The HUD definition of family includes the *remaining member of a tenant family,* which is a member of an assisted family who remains in the housing unit when other members of the family have left the unit. Household members such as live-in aides, foster children and foster adults do not qualify as remaining members of a family.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

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

PHA Policy
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.

3-I.E. SPOUSE, CO-HEAD and OTHER ADULT [HUD-50058-I]

A family may have a spouse or co-head of household, but not both. *Spouse* means the marriage partner of the head of household.

PHA Policy
A *marriage partner* includes the partner in a 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 a family member who is equally responsible with the head of household for ensuring that the family fulfills all of the HCV program responsibilities, but who is not a spouse. A family can have only one co-head.

PHA Policy
Minors who are emancipated under state law may be designated as a co-head.

Other Adult means an adult family member other than the head of household, spouse or co-head. Foster adults and live-in aides are not considered other adults.

3-I.F. DEPENDENT [24 CFR §5.603]

A *dependent* is a family member who is under 18 years of age, a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: head of household, spouse, co-head of household, foster children/adults and live-in aides. Identifying dependents is important because each dependent qualifies the family for an allowance, as described in Chapter 6.

Joint Custody of Dependents

PHA Policy
Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time. "51% of the time" is defined as 183 days of the year, which need not run consecutively.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

When a dependent is claimed by more than one applicant or participant family, the family with primary custody at the time of admission or reexamination will be able to claim the dependent. If there is a dispute about which family should claim the dependent, HACLB will make the determination based on available documents such as court orders, an IRS return showing which family claimed the dependent for income tax purposes or school records or other comparable document(s).

3-I.G. FULL-TIME STUDENT [24 CFR §5.603; HCV Guidebook, Chapter 5, pg. 5-29]
A *Full-Time Student* (FTS) is a person who attends school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each full-time student is important because:

1. Each full-time student, other than the head of household, spouse or co-head of household, qualifies the family for a dependent allowance; and

2. The income of a full-time student is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS and ELDERLY FAMILY
[24 CFR §5.100 and 24 CFR §5.403, Equal Access in Accordance with Gender Identity Final Rule 2016, and Equal Access to Housing Final Rule 2012]

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

Near-Elderly Persons
A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family
An *Elderly Family* is one in which the head of household, spouse, co-head or sole member is an elderly person. Identifying Elderly families is important because these families qualify for special deductions from income, as described in Chapter 6.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR §5.403, Equal Access in Accordance with Gender Identity Final Rule 2016 (FR 5863-F-02), and Equal Access to Housing Final Rule 2012 – FR Notice 5350-F-02]

Persons with Disabilities
Under the HCV program, special rules apply to persons with disabilities and to any family whose head of household, spouse or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

As discussed in Chapter 2, PHAs must make all aspects of the HCV program accessible to persons with disabilities and consider Reasonable Accommodations requested based upon a person's disability.

Disabled Family

A *Disabled Family* is one in which the head of household, spouse or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income, as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent HACLB from denying assistance for reasons related to alcohol and drug abuse following policies in Part III of this chapter or from terminating assistance following policies in Chapter 12.

3-I.J. GUESTS [24 CFR §5.100]

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

> PHA Policy
>
> A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 60 cumulative calendar days during any 12-month period.
>
> 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 51 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 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.
>
> In all cases, the family must abide by their residential lease. HACLB staff will strongly encourage the family to receive written approval from the owner regarding any house rules.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

The term *foster child* is not specifically defined by regulation. Foster children/adults are considered household members, but not family members. The income of foster children/adults is not counted in annual income and foster children/adults do not qualify for a dependent deduction. [24 CFR §5.603; HUD-50058-I, page 13]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

A *foster child* is a child that is in the legal guardianship or custody of a state, county or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

A foster child or foster adult may be allowed to reside in the housing unit if their presence would not result in a violation of HQS space standards according to 24 CFR §982.401.

A foster adult who converts to a household member is subject to the same criteria as a new admission.

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

PHA Policy

Generally, an individual who is or is expected to be absent from the assisted unit for 30 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 30 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

PHA Policy

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

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

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

PHA Policy

If a child is placed in foster care, HACLB 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 will be returned to the home in less than 30 calendar days, the child will be removed as a family member.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Absent Head of Household, Spouse or Co-head

PHA Policy
An employed head of household, spouse or co-head absent from the housing unit more than 30 consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted. [HCV Guidebook, Chapter 5, page 5-22]

PHA Policy
HACLB will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent.

However, a family member that is confined for more than 180 calendar days will be considered permanently absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

PHA Policy
The family must request HACLB approval for the return of any adult family member that HACLB determined to be permanently absent. The individual is subject to HACLB's eligibility and screening requirements.

3-I.M. LIVE-IN AIDE [24 CFR §982.316(b)]

Live-in aide means a person who resides with one or more elderly persons, 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 housing unit except to provide the necessary supportive services. [24 CFR §5.403]

PHAs must approve a live-in aide if needed as a Reasonable Accommodation in accordance with 24 CFR Subtitle A, Part 8. 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 all of the criteria defining a live-in aide is met. 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker or case worker, that the live-in aide is essential for the care and well-being of an elderly, near-elderly or disabled family member. For continued approval, the family must submit a new, written request annually.

In addition, the family and live-in aide will be required to submit a live-in aide agreement, acknowledging live-in aide requirements. HACLB will not approve a person as a live-in aide and may withdraw such approval if:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related or violent criminal activity; or
- The person currently owes rent or other amounts to HACLB or to any PHA in connection with any housing program under the United States Housing Act of 1937 and has not complied with or entered into a Repayment Agreement.

Within 30 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, HACLB will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the HCV program. The income limits are published annually and are based on HUD estimates of media family income in a particular area or county, with adjustments for family size.

Types of Low-Income Families [24 CFR §5.603(b)]

- *Low-Income Family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
- *Very Low-Income Family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
- *Extremely Low-Income Family.* A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50 or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Using Income Limits for Eligibility [24 CFR §982.201]
Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be one of the following:

- A *Very Low-Income* Family;
- A *Low-Income* Family that is "continuously assisted" under the United States Housing Act of 1937 (the "Act"). A family is considered to be continuously assisted if the family is already receiving assistance under any United States Housing Act program at the time the family is admitted to the HCV program [24 CFR §982.4]

  PHA Policy
  A family will be considered to be continuously assisted if the family has no more than 180 calendar days break between leasing a unit under any U.S. Housing Act program and the eligibility determination made to HACLB's HCV program.

- A *Low-Income* Family that meets additional eligibility criteria specified in the PHA's Administrative Plan. Such additional PHA criteria must be consistent with the PHA plan and with the consolidated plans for local governments in the PHA's jurisdiction;
- A *Low-Income* Family that qualifies for Voucher assistance as a non-purchasing household living in HOPE 1 (public housing Homeownership), HOPE 2 (HOPE for Homeownership of multi-family units) project. (Section 8(o)(4)(D) of the United States Housing Act of 1937 (42 U.S.C. §1437f(o)(4)(D));
- A *Low-Income* or *Moderate-Income* Family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR §248.101;
- A *Low-Income* Family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident Homeownership program under 24 CFR §248.173.

HUD permits PHAs to establish additional categories of low-income families that may be determined eligible. Additional categories must be consistent with the PHA's Administrative Plan and Consolidated Plan in the PHA's jurisdiction.

PHA Policy
HACLB has not established any additional categories of eligible low-income families.

Using Income Limits for Targeting [24 CFR §982.201]
At least 75 percent of the families admitted to HACLB's program during a fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if HACLB demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Families continuously assisted under the United States Housing Act of 1937 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 subject to the 75 percent restriction.

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

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

At the time of application, the PHA must notify all applicants for assistance about the rule restricting assistance based on citizenship status and of the requirement to submit documentation of eligible status or to elect not to claim eligible status.

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

Declaration [24 CFR §5.508]

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

U.S. Citizens and Nationals

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a Verification Consent Form and cooperate with the PHAs efforts to verify their immigration status, as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status was granted, the person's age and housing assistance admission date of the family.

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

Ineligible Noncitizens [24 CFR §5.522]

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head of household, spouse or co-head (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

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

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national or eligible noncitizen. Families that include eligible and ineligible individuals are considered *Mixed Families*. Such families will be given notice that their assistance will be prorated and informed of their right to request a hearing if the determination is contested. See Chapter 6 for a discussion of how rents are prorated and Chapter 16 for a discussion of Informal Hearing procedures.

Ineligible Families [24 CFR, Subtitle A, Part 5, Subpart A, §5.514(d)(e) and (f)]

PHAs may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member. [24 CFR §5.512(b)]

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy
HACLB will not provide assistance to a family before the verification of at least one family member. When HACLB determines that an applicant does not include any citizens, nationals or eligible noncitizens, the family will be sent a written notice within fifteen (15) business days 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 their right to request an appeal to the U.S. Citizenship and Immigration Services (USCIS) or to request an Informal Hearing with HACLB. The Informal Hearing with HACLB may be requested in lieu of the USCIS appeal or at the conclusion of the USCIS appeal process. The notice will also inform the applicant that assistance will 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. Informal Hearing procedures are contained in Chapter 16.

Timeframe for Determination of Citizenship Status [24 CFR §5.508(g) and (h)]
For new occupants joining the assisted family, the PHA verifies status at the first interim or regular reexamination following the occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days. Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

PHA Policy
HACLB will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR §5.216, §5.218 and HUD Notice PIH 2012-10]
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. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHAs must deny assistance to an applicant if the SSN disclosure and documentation requirements contained in 24 CFR §5.216 are not met.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR §5.230 and HCV Guidebook, Chapter 5, page 5-13]

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

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

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR §5.612, Federal Register Notice 4/10/06]
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, and does not have a dependent child, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with PHA policy, the income of the student's parents will not be considered in determining 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.

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule: http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf

Definitions
In determining whether the new eligibility restrictions apply to a student, PHAs will rely on the following definitions. [Federal Register Notice 4/10/06, page 18148]

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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Independent Student

PHA Policy

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

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.

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

  - Be at least 24 years old by December 31 of the award year for which aid is sought;
  - Be an orphan or a ward of the court through the age of 18;
  - Be a veteran of the U.S. Armed Forces;
  - Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent);
  - Be a graduate or professional student;
  - A professional student is a student majoring in a professional degree, such as Law, Medicine, Veterinary Medicine, Engineering, Business Administration or similar professions;
  - Be married.

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

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

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

Institution of Higher Education

PHAs will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *Institution of Higher Education* (see Exhibit 3-2).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Parents

PHA Policy
For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents, as long as the person is currently married to the biological or adoptive parent, and guardians (e.g. grandparents, aunts, uncles, godparents, etc.).

Person with Disabilities

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

Veteran

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

Determining Student Eligibility

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

PHA Policy
For any student who is subject to the 24 CFR §5.612 restrictions, HACLB will:

Follow its usual policies in determining whether a student individually and a student's "family" collectively are eligible for the program to determine whether the student is independent from his/her parents.

If HACLB determines that the student, the student's parents (if applicable) or the student's "family" is not eligible, a notice of denial will be sent in accordance with the policies in Section 3-III.F and the applicant will have the right to request an Informal Review, in accordance with Section 16-III.B.

Determining Parental Income Eligibility

PHA Policy
For any student who is subject to the 24 CFR §5.612 restrictions and who does not satisfy the definition of *independent student* in this section, HACLB will determine the income eligibility of the student's parents, as follows:

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- If the student's parents are married and living together, HACLB will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, HACLB will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, HACLB 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, HACLB 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. HACLB 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, HACLB will use the income limits for the jurisdiction in which the parents live.

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

An applicant that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. In addition, HUD requires or permits PHAs to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial [24 CFR §982.552(a)(2); HCV Guidebook, Chapter 5, page 5-35]
Denial of assistance includes any of the following:

- Not placing the applicant's name on the waiting list;
- Denying or withdrawing a Voucher;
- Not approving a request for tenancy or refusing to enter into a HAP Contract;
- Refusing to process a request or provide assistance under portability.

Prohibited Reasons for Denial of Program Assistance
HUD rules prohibit denial of program assistance to the program based on any of the following criteria [24 CFR §982.202(b) and 24 CFR §5.2005(b)]:

- Race, color, religion, national original, sex, familial status, disability and age. See Chapter 2 for more information on fair housing requirements;
- Where an applicant lives prior to admission to the program;
- Where the applicant will live with program assistance. Although eligibility is not affected by where the applicant will live, there may be restrictions on the applicant's ability to move outside of HACLB's jurisdiction under portability. (see Chapter 10);

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Whether members of the family are unwed parents, recipients of public assistance or children born out of wedlock;
- Whether the applicant family includes children;
- Whether an applicant family decides to participate in a Family Self-Sufficiency program;
- Whether or not a qualified applicant is or was a victim of domestic violence, dating violence or stalking if the applicant is otherwise qualified for assistance (see section 3-III.G).

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR §982.553(a)]
HUD requires PHAs to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, PHAs to admit an otherwise-eligible applicant family if the household member has completed a drug rehabilitation program approved by the PHA 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).

  PHA Policy
  HACLB may admit an otherwise-eligible applicant family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if verification is obtained that the person who committed the crime, is no longer living in the household.

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

  PHA Policy
  Currently engaged in is defined as any use of illegal drugs during the previous twelve months.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs or current abuse or pattern of abuse of alcohol, may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- 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.

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

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

Criminal Activity [24 CFR §982.553 and Notice PIH 2003-11]
HUD permits, but does not require, PHAs to deny assistance if the PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before admission, certain types of criminal activity.

PHA Policy
If any household member is currently engaged in or has engaged in any of the following criminal activities, within the past three years, the applicant family will be denied assistance. This includes any conviction for drug-related or violent criminal activity within the past 3 years.

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

- *Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use or threatened use of physical force substantial enough to cause or be reasonably likely to cause, serious bodily injury or property damage. [24 CFR §5.100]

- Criminal activity that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.

- Criminal activity that may threaten the health or safety of property owners and management staff and persons performing contract administration functions or other responsibilities on behalf of HACLB (including PHA employees or PHA contractors, subcontractors or agents).

Immediate vicinity means within a three-block radius of the premises.
Evidence of such criminal activity includes, but is not limited to:

Any arrests for drug-related or violent criminal activity within the past 3 years. Arrest records must be backed up by supporting documentation of the drug-related or violent criminal activity. A conviction will be given more weight than an arrest for such activity. Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 3 years.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

Previous Behavior in Assisted Housing [24 CFR §982.552(c)]
HUD authorizes, but does not require, PHAs to deny assistance based on the applicant family's previous behavior in assisted housing:

PHA Policy
HACLB **will not** deny assistance to an otherwise eligible applicant who previously failed to meet an obligation under the Family Self-Sufficiency (FSS) program.

Authority to Deny or Termination Assistance. [24 CFR §982.552(c)]
HACLB **will** deny assistance to an applicant family if:

1. The family has failed to comply with any Family Obligation under the HCV program.

2. Any family member has been evicted from federally-assisted housing in the last three (3) years.

3. Any family member has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.

4. The family currently owes rent or other amounts to HACLB or to any PHA in connection with the HCV or Public Housing programs under the United States Housing Act of 1937.

5. The family has breached the terms of a Repayment Agreement entered into with HACLB or any other PHA, unless the family repays the full amount of the debt owed prior to being selected from the waiting list.

6. A family member has engaged in or threatened violent or abusive behavior toward HACLB personnel, including contractors or agents.

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 included.

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

3-III.D. SCREENING

Screening for Eligibility [24 CFR §5.903 and Notice PIH 2003-11]
PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists PHAs in complying with requirements to deny assistance to applicants who engage in or have engaged in certain criminal activities. In order to obtain access to records, PHAs require adult household members to sign a consent form.

> PHA Policy
> HACLB will perform a criminal background check through national law enforcement for every adult household member.

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided. [24 CFR §982.553(a)(2)(i)]

If a PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA will notify the household of the proposed action and provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and/or relevance of the information prior to a denial of admission. [24 CFR §5.903(f) and §5.905]

Screening for Suitability as a Tenant [24 CFR §982.307]
PHAs have no liability or responsibility to the owner for the family's behavior or suitability for tenancy. PHAs may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

> PHA Policy
> HACLB will not conduct additional screening to determine an applicant family's suitability for tenancy.

HACLB will inform the owner that screening and selection for tenancy of the family is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, care of the housing unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others and compliance with other essential conditions of tenancy.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHAs may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence or stalking except at the written request or with the written consent of the individual providing the documentation. [24 CFR §5.2007]

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

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

Evidence [24 CFR §982.553(c)]

PHA Policy
HACLB will use the concept of preponderance of the evidence as the standard for making decisions to deny assistance.

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 is determined by the greater weight of all the evidence, rather than the number of witnesses.

Consideration of Circumstances [24 CFR §982.552(c)(2)]
HUD authorizes PHAs to consider all relevant circumstances when deciding whether to deny assistance based on an applicant family's past history except in the situations for which denial of assistance is mandated (see Section 3-III.B).

PHA Policy
HACLB will consider the following factors prior to making a decision:

- The seriousness of the case, especially with respect to how a denial of assistance may affect 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 (as discussed further in section 3-III.G) a victim of domestic violence, dating violence or stalking;
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.

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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HACLB will require the applicant 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.

Removal of a Family Member from the Application [24 CFR §982.552(c)(2)(ii)]
HUD permits PHAs to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, to not reside in the housing unit.

PHA Policy
As a condition of receiving assistance, an applicant may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

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

Reasonable Accommodation [24 CFR Part 8 and 24 CFR §982.552(c)(2)(iv)]
If the applicant family includes a person with disabilities, a PHA's decision concerning denial of admission is subject to consideration of Reasonable Accommodation.

PHA Policy
If the applicant indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, HACLB will determine whether the behavior is related to the disability. If so, upon the family's request, HACLB will determine whether alternative measures are appropriate as a Reasonable Accommodation. HACLB will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of Reasonable Accommodation.

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

If the applicant family is eligible for assistance, the PHA will notify the family when it extends the invitation to attend the Voucher briefing appointment. [Chapter 5]

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

PHA Policy
Prior to issuing a Notice of Denial, HACLB will notify the applicant in writing of the proposed determination and provide ten (10) business days to dispute the accuracy and/or relevance of the information used for the determination.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If the applicant does not contact HACLB to dispute the information within the 10-day period, HACLB will proceed with issuing a Notice of Denial. An applicant 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.

The applicant will be notified of a decision to deny assistance in writing within fifteen (15) business days of the determination.

If a PHA uses a criminal record or sex offender registration information obtained under Title 24, Part 982, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and/or relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record. [24 CFR §5.903(f) and §5.905]

PHAs must give the applicant family an opportunity to dispute the accuracy and relevance of that record, in the Informal Review process in accordance with program requirements. [24 CFR §982.553(d)]

PHA Policy

If based on a criminal record or sex offender registry, an applicant appears to be ineligible, HACLB will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record.

The applicant will be given ten (10) business days to dispute the accuracy and/or relevance of the information. If the family does not contact HACLB to dispute the information within the 10-day period, HACLB will proceed with issuing a Notice of Denial. An applicant that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the Informal Review process.

Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B. Notice policies related to denying applicants who may be victims of domestic violence, dating violence or stalking are contained in Section 3-III.G.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE and STALKING

The Violence Against Women Reauthorization Act of 2013 (VAWA) and the HUD regulation at 24 CFR §5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program "on the basis that the applicant is or was a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission."

Definitions of key terms used in VAWA are provided in section 16-IX of this Plan, along with general VAWA requirements and policies.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Notification
VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a notice of rights and the Form HUD-5380 and Form HUD-5382 at the time the applicant is denied.

PHA Policy
HACLB acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history (e.g. a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under HACLB's policies.

Therefore, if HACLB makes a determination to deny assistance to an applicant family, HACLB will include in the notice of denial: the VAWA information described in section 16-IX.C of this Plan, as well as a copy of Form HUD-5380 and Form HUD-5382. HACLB will request in writing that an applicant wishing to claim protection under VAWA notify HACLB within ten (10) business days.

Documentation
Victim Documentation [24 CFR Part 5, Subpart L, §5.2007]

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

Perpetrator Documentation

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

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Subpart D – Definitions for Section 8 and Public Housing Assistance under the United States Housing Act of 1937

;

Person with Disabilities (24 CFR §5.403)

Person with Disabilities means a person who:

1. Has a disability as defined in Section 223 of the Social Security Act, 42 USC §423; or,
2. Has a physical or mental impairment that:
   a. Is expected to be of long continued and indefinite duration;
   b. Substantially impedes his/her ability to live independently; and,
   c. Is of such nature that such disability could be improved by more suitable housing conditions; or,
   2. Has a developmental disability as defined in Section 102 (5)(b) of the Developmental Disabilities Assistance and Bill of Rights Act, 42 USC, Chapter 75, Subchapter I, §6001(5).
4. Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
5. For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
6. Means "individual with handicaps", as defined in 24 CFR Part §8.3, for purposes of Reasonable Accommodation and program accessibility for persons with disabilities.

Individual with Handicaps [24 CFR Part §8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

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

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

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

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

People with the Acquired Immunodeficiency Syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

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

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

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

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

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

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

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4) and (5) of subsection (a) of this section; and

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students, persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

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

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

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

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

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

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

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

(2) Institutions outside the United States

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

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

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

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

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

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

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

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

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

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

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

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

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

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

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

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

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

(b) Proprietary institution of higher education

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

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

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

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

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

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

(c) Postsecondary vocational institution.

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

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

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

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION [24 CFR §982.153, HCV Guidebook, Chapter 4, page 4-1]

When a person or group of persons wish to receive Housing Choice Voucher (HCV) assistance, an application must be submitted that provides the Housing Authority of the City of Long Beach (HACLB) with the information needed to determine an applicant's eligibility. The U.S. Department of Housing and Urban Development (HUD) requires Public Housing Agencies (PHAs) to maintain a waiting list of applicants for the HCV program. When HCV assistance becomes available, the PHA selects applicants from the waiting list, in accordance with HUD requirements and PHA policies, as stated in the Administrative Plan and the Public Housing Agency (PHA) Plan.

PHAs are required to adopt a clear approach to accepting applications, placing applicants on the waiting list, selecting applicants from the waiting list and must follow this approach consistently. The actual order in which applicants are selected from the waiting list can be affected if an applicant has certain characteristics designated by HUD or the PHA to receive priority, based on local housing needs determined by the PHA. Funding earmarked exclusively for applicants with particular characteristics may also alter the order in which families are served.

HUD regulations require that all applicants have an equal opportunity to apply for and receive housing assistance and that Public Housing Agencies (PHAs) affirmatively further fair housing in the administration of its programs. Adherence to the selection policies described in this chapter ensures that PHAs are in compliance with all relevant fair housing requirements, as described in Chapter 2.

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

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

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the PHA's efforts to distribute and accept applications and to make preliminary determinations of eligibility that affect placement of applicants on the waiting list. This part also describes HACLB's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities and people with Limited English Proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11-16 and Notice PIH 2009-36]

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

PHA Policy

Depending upon the length of time that applicants may need to wait to receive assistance, HACLB may use a one- or two-step application process.

A two-step process will be used when it is expected that an applicant will not be selected from the waiting list for at least 60 days from the date of application.

Under the two-step application process, HACLB initially will require applicants to provide only the information needed to make an initial assessment of the applicant's eligibility and to determine placement on the waiting list.

The applicant will be required to provide all of the information necessary to establish eligibility and level of assistance when the applicant is selected from the waiting list.

Applicants may apply online through HACLB's website. Application forms are not available from HACLB's office or by mail.

Applications must be complete in order to be accepted by HACLB for processing. If an application is incomplete, the online system will alert the user applicant with an error message advising that the application is incomplete.

Alternate application methods will be provided if necessary as a Reasonable Accommodation for a person with disabilities.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR, Subtitle A, Part 8 & HCV GB, page 4-11] PHAs must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard HACLB application process. This could include people with disabilities, certain elderly individuals, as well as persons with Limited English Proficiency (LEP). PHAs must provide Reasonable Accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible or the PHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of HACLB's policies related to providing Reasonable Accommodations for people with disabilities.

PHA Policy
When assistance in applying is requested as a Reasonable Accommodation, HACLB will assist applicants with the application process.

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

4-I.D. PLACEMENT ON THE WAITING LIST

PHAs must review applications and make a preliminary assessment of eligibility. PHAs must accept applications from applicants for whom the list is open, unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations. [24 CFR §982.206(b)(2)]

When an applicant is determined ineligible, PHAs must notify the applicant in writing. [24 CFR §982.201(f)] No applicant has a right or entitlement to be listed on the waiting list or to any particular position on the waiting list. [24 CFR §982.202(c)]

Ineligible for Placement on the Waiting List

PHA Policy
If HACLB determines from the information provided that an applicant is ineligible, HACLB will send written notification of the proposed determination and provide ten (10) business days to dispute the accuracy and/or relevance of the information used for the determination.

If the applicant does not contact HACLB to dispute the information within the 10-day period, HACLB will proceed with issuing a Notice of Denial. An applicant 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Eligible for Placement on the Waiting List

PHA Policy
The online application system will provide written notification of application acceptance and placement on the waiting list.

Placement on the waiting list does not indicate that the applicant is, in fact, eligible for assistance. A final determination of eligibility will be made when the applicant is selected from the waiting list. Applicants will be placed on the waiting list according to reported preference(s) and date/time of application.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

PHAs must have policies regarding various aspects of organizing and managing the HCV waiting list. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the waiting list, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how PHAs may structure its waiting list and how applicants must be treated if a PHA administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR §982.204 and §982.205]

The PHA's waiting list must be organized in such a manner to allow accurate identification and selection of applicants for assistance, according to the admissions policies described in this Plan.

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

- Applicant name;
- Family unit size (number of bedrooms for which family qualifies under PHA occupancy standards)
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

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

PHA Policy
HACLB will maintain separate waiting lists for the project-based and tenant-based HCV programs.

In the tenant-based program, a separate list will be maintained for HOPWA applicants.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HUD directs PHAs to offered HCV applicants the opportunity to be placed on the waiting list for any public housing, Project-Based Voucher or moderate rehabilitation program the PHA operates if: 1) the other programs' waiting lists are open; and 2) the applicant is qualified for the other programs.

HUD permits, but does not require, that HACLB maintain a single merged waiting list for their public housing, Section 8 and other subsidized housing programs.

An applicant's decision to apply for, receive or refuse other housing assistance must not affect the applicant's placement on the HCV waiting list or any preferences for which the applicant may qualify.

PHA Policy
HACLB will not merge the HCV waiting list with the waiting list for any other program HACLB operates.

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

Closing the Waiting List

A PHA is permitted to close the waiting list if it has an adequate pool of applicants to use its available HCV assistance. Alternatively, PHAs may elect to continue to accept applications only from certain categories of applicants that meet particular preferences or funding criteria.

PHA Policy
HACLB will decide on the period the waiting list will be open prior to opening the waiting list. HACLB will publish the period of time the waiting list will be open.

When HACLB has particular preferences or funding criteria that require a specific category of applicants, HACLB may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list is closed, it cannot be reopened until the PHA publishes a notice in local newspapers of general circulation, minority media and other suitable media outlets. The notice must comply with HUD's fair housing requirements and must specify who may apply and where and when applications will be received.

PHA Policy
HACLB will announce the reopening of the waiting list at least thirty (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.

HACLB will give public notice by publishing the relevant information in suitable media outlets, ensuring notice is given in local newspapers of general circulation, minority media and other suitable media outlets.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HACLB will give public notice by publishing the relevant information in suitable media outlets, ensuring notice is given in local newspapers of general circulation, minority media and other suitable media outlets.

HACLB will also send notices announcing the opening of the waiting list to appropriate local offices and agencies.

All notices shall be provided in English, Spanish, Khmer and Tagalog, as well as any other languages deemed appropriate, pursuant to the LEP procedures contained in this Plan.

4-II.D. FAMILY OUTREACH [HCV GB, Chapter 4, pages 4-2 to 4-4]
PHAs must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

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

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

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

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

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

<u>PHA Policy</u>
HACLB will monitor the characteristics of the population being served and the characteristics of the population as a whole in HACLB's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

4-II.E. REPORTING CHANGES IN CIRCUMSTANCES

PHA Policy

While an applicant is on the waiting list, the applicant must inform HACLB of changes in contact information, including current residence, e-mail address and mailing address in a timely manner. The changes must be submitted in writing or through the online application update process. Accommodations will be made for LEP applicants and persons with disabilities who require additional assistance.

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

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

Purging the Waiting List [24 CFR §982.204(c)(2)]

The decision to withdraw an applicant that includes a person with disabilities from the waiting list is subject to Reasonable Accommodation. If an applicant does not respond to a PHA request for information or updates because of a family member's disability, the PHA must reinstate the applicant to their former waiting list position.

PHA Policy

The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.

To update the waiting list, HACLB will send an update request via email to each applicant to determine whether the applicant continues to be interested in and to qualify for the HCV program. For those families on the waiting list with no email address or who fail to respond to an email, HACLB will send an update request via first class mail.

This update request will be sent to the last email address that HACLB has on record for the applicant. For those applicants on the waiting list with no email address, the update request will be sent to the last mailing address that HACLB has on record for the applicant. The update request will provide a deadline by which the applicant must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The applicant's response must be through the online system. Responses should be received by HACLB by the end of the business day noted on the applicant's notification. For applicants who need assistance in accessing the online system, HACLB will provide accommodations as necessary to ensure that the applicant can submit a response on the online system.

If the applicant fails to respond by the deadline, a notice of denial will be sent to the applicant's address of record, as well as to any known alternate address provided on Form HUD-92006.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If an email notice is rejected, HACLB will send a notice to the applicant's mailing address of record. If a notice is returned by the post office with no forwarding address, the applicant will be removed from 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. The applicant will be given a new deadline by which to respond.

Within one year of the removal date of an applicant who failed to respond to HACLB, the Deputy Executive Director or their designee may reinstate the applicant if it is determined that the lack of response was due to an administrative error or to circumstances beyond the applicant's control.

Removal from the Waiting List

PHA Policy

If an applicant on the waiting list is determined ineligible (see Chapter 3), HACLB will send written notification of the proposed determination and provide ten (10) business days for the applicant to dispute the accuracy and/or relevance of the information used for the determination.

If the applicant does not contact HACLB to dispute the information within the 10-day period, HACLB will proceed with issuing a Notice of Denial.

Notices will be sent to the applicant's email address of record, as well as to any alternate mailing address provided on the initial application. The Notice of Denial will state the denial reasons and will inform the applicant how to request an Informal Review. (see Chapter 16) [24 CFR §982.201(f)]

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

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

The order in which families receive assistance from the waiting list depends on the selection method chosen by HACLB and is impacted in part by any selection preferences that the applicant qualifies for. The source of HCV funding also may affect the order in which applicants are selected from the waiting list.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR §982.203]

HUD may award funding for specifically named applicants living in specified types of units (e.g. a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. PHAs must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR §982.204(e) and 24 CFR §982.54(d)(3))]

HUD may award a PHA funding for a specified category of applicants on the waiting list. PHAs must use this funding only to assist the applicants within the specified category. Within this category of applicants, the order in which such applicants are assisted is determined according to the policies provided in Section 4-III.C.

PHA Policy

HACLB administers the following types of targeted funding:

- Coordinated Entry System (CES)/Continuum of Care (CoC)
- Housing Opportunities for Person with AIDS (HOPWA)
- Non-Elderly Disabled (NED)
- Veterans Affairs Supportive Housing (VASH)

Regular HCV Funding

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

4-III.C. SELECTION METHOD

PHAs must describe the method for selecting applicants from the waiting list, including any PHA-approved admission preferences. [24 CFR §982.202(d)]

Local Preferences [24 CFR §982.207 and HCV GB, page 4-16]

PHAs are permitted to establish local preferences and to give priority to applicants that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits PHAs to establish other local preferences at its discretion. Any local preferences established must be consistent with the Administrative Plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

PHA Policy

HACLB will first offer preferences to applicants who are residents of HACLB's jurisdiction who qualify for the following preferences.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

1. **Waiting List Order**

HACLB's waiting list will be maintained with the following guidelines:

	Preference Title	Points
a.	Coordinated Entry System (CES)/Continuum of Care (COC) Preferences	100
b.	Housing Opportunities for Person with AIDS (HOPWA) Participant Expiration Preference	100
c.	Displaced Due to Governmental Action Preference	100
d.	Non-Elderly Disabled Non-Impacted Preference	100
e.	Residency Preference	50
f.	Veterans Preference	15
g.	Elderly or Disabled Preference	4

2. **Local Preference Definitions** [24 CFR §982.207]

An applicant's preference(s) are verified when selected from the waiting list. When HACLB wishes to change its current preference system, a notice will be published, including an opportunity for public comment. An opportunity for public comment can be a public meeting or an opportunity to submit written comment.

1. **Coordinated Entry System/ Continuum of Care Preference.** (100 points)

   Applicants who experienced homelessness, displacement or are at risk of homelessness or displacement. HCV funding for this preference is based on funding availability, as approved by HACLB.

   - Homeless applicants referred by the City of Long Beach Multi-Service Center, after completing intake, assessment and development of an individual service plan.
   - Domestic Violence applicants, as certified by the Multi-Service Center as applicants with household member(s) who are homeless due to acts of domestic violence, dating violence, sexual assault, or stalking, as certified by the Multi-Service Center.
   - Family Preservation program applicants referred by the Los Angeles County Department of Children and Family Services (DCFS) -provides support to strengthen and preserve families whose children are at risk of placement in out-of-home care.

2. **HOPWA Participant Expiration Preference**. (100 points)

   HACLB will offer a preference to current HACLB HOPWA program participants in good standing with the program prior to the termination date of the family's HOPWA program participation, when applicable.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

3. **Displaced Due to Governmental Action Preference.** (100 points)
   HACLB will offer a preference to applicants displaced: by government action or by an event that resulted in the area in which they resided in being declared a federal or state disaster area:

   - Applicants who reside in the city of Long Beach who are displaced by government action through no fault of their own.
   - Applicants who reside in affordable housing developments built or purchased with the assistance of the City of Long Beach, Redevelopment Agency or Housing Authority bonds, who are displaced when affordability conditions attached to the bonds are lifted prior to the original termination date.
   - Applicants residing in a multi-family rental housing project in Long Beach covered by a project-based HCV HAP Contract when HUD sells, forecloses, refinances, or demolishes the project.

4. **Non-Elderly Disabled Preference.** (100 points)
   The Non-Elderly Persons with Disabilities (NED) program provides Housing Choice Vouchers for non-elderly disabled applicants.

5. **Residency Preference.** (50 points)
   - The head of household or spouse live, work or have been hired to work in the city of Long Beach. HACLB's residency preference will not have the purpose or effect of delaying or otherwise denying admission to the HCV program based on the race, color, religion, national origin, sex/gender, disability or age of any member.
   - HACLB will verify that the applicant lives within the jurisdiction through review of a current lease, utility bill, letters from housing providers, vehicle registration, business and household mail or other original documents.
   - HACLB will verify that the qualifying individual works within HACLB's jurisdiction through review of paystubs, letters from the employer or other credible documentation.
   - HACLB will verify that the qualifying individual is hired to work within HACLB's jurisdiction through review of a job-offer letter.

6. **Veterans Preference.** (15 points)
   The head of household, spouse or co-head is a veteran or a surviving spouse of a veteran of the U.S. Military Armed Forces who was discharged or released under conditions other than dishonorable.

7. **Elderly or Disabled Preference**. (4 points)
   The head of household, spouse or co-head must be 62 years of age or older; or a person with disabilities, as defined by the U.S. Department of Housing and Urban Development (HUD).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Income Targeting Requirement [24 CFR §982.201(b)(2)]
HUD requires that Extremely Low-Income (ELI) applicants make up at least 75% of the applicants admitted to the HCV program each fiscal year. ELI applicants are those with annual income at or below 30% of the area median income. To ensure this requirement is met, a PHA may skip non-ELI applicants on the waiting list in order to select an ELI applicant.

Low-income families admitted to the program that are "continuously assisted" under the United States Housing Act of 1937 [24 CFR §982.4(b)] are not counted for income targeting purposes [§100.20(b)(2)(v)], as well as low-income or moderate-income families admitted who were displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract in eligible low-income housing.

> PHA Policy
> HACLB will monitor progress in meeting the extremely low-income (ELI) requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income-targeting requirement is met.

Order of Selection
A PHAs system of preferences may select applicants either according to the date and time of application or by a random selection process. [24 CFR §982.207(c)] When selecting applicants from the waiting list, PHAs are required to use targeted funding to assist only those applicants who meet the specified criteria and PHAs are not permitted to skip down the waiting list to an applicant that it can afford to subsidize when there are not sufficient funds to subsidize the applicant at the top of the waiting list. [24 CFR §982.204(d)-(e)]

> PHA Policy
> The order of selection from HACLB's Waiting List is based on the approved point system for weighing preferences. The waiting list will be organized by date and time of application among applicants with equal preference status.
>
> HACLB will adhere to HUD's requirement that at least 75% of new admissions qualify as "Extremely Low-Income" (30% of Area Median Income).

4-III.D. NOTIFICATION OF SELECTION
PHAs must notify applicants when they are selected from the waiting list.

> PHA Policy
> HACLB will notify applicants by email when selection is made from the waiting list. The notice will include a Family Declaration and other required forms. The notice will inform applicants of HACLB's application requirements to complete and return the Family Declaration and other documents within ten (10) business days from the date the notification is sent by email. Applicants must return the application packet by mail or may submit the packet in HACLB's lobby drop-box.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If a notification letter is undeliverable by email a first-class letter will be mailed to the address of record. If the letter is returned to HACLB with no forwarding address, the applicant will be removed from the waiting list. If an applicant fails to return the application packet by the initial deadline, a follow up notice will be sent by email and by first class mail to the address of record. If an applicant fails to respond the applicant will be removed from the waiting list.

If the applicant submits an incomplete application packet, HACLB will mail a notice to the applicant informing them that the application packet is incomplete. The notice will direct the applicant to provide any missing documents within ten (10) business days. If an applicant fails to provide the missing documents by the deadline, the applicant will be removed from the waiting list.

A denial notice will be sent to the applicant's mailing address of record, as well as to any known alternate address provided on Form HUD-92006.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that PHAs obtain the information and documentation needed to make an eligibility determination through a private interview. [HCV GB, page 4-16]

Being invited to attend an interview does not constitute admission to the program. Assistance cannot be provided to the applicant until all SSN documentation requirements arfe met. However, if a PHA determines that an applicant is otherwise eligible to participate in the program, the applicant may retain their place on the waiting list for a period of time determined by the PHA. [Notice PIH 2012-10]

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

PHA Policy

HACLB will review returned application packets to determine potential eligibility. Criminal background checks and other basic functions will be performed. Applicants determined potentially eligible will be scheduled for a full eligibility interview. All adults (household members 18 and older) are required to attend the full eligibility interview. Exceptions may be made on a case-by-case basis.

Pending disclosure and documentation of social security numbers, HACLB will allow the applicant to retain their place on the waiting list for thirty (30) calendar days. If all household members have not disclosed their SSNs, an extension of up to ninety (90) calendar days may be provided, pending documentation of the request.

The applicant must provide the information necessary to establish the eligibility and determine the appropriate level of assistance, as well as the required forms, required signatures and required documentation. If any materials are missing, HACLB will provide a written list of items that must be submitted.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Any required documents or information that the applicant is unable to provide at the interview (or other determined due date) must be provided within ten (10) business days of the requested submittal date. Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible immigration status. If an applicant is unable to obtain the information or materials within the required time frame, the applicant may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the applicant will be sent a notice of denial (see Chapter 3).

Interviews will be conducted in English. For applicants with Limited-English Proficiency (LEP), translation services may be provided, in accordance with HACLB's Language Access Plan upon request. An advocate, interpreter or other assistant may assist the applicant with the application and the interview process.

If the applicant is unable to attend a scheduled interview, the applicant should contact HACLB in advance of the interview to schedule a new appointment. In all circumstances, if an applicant does not attend a scheduled interview, HACLB will send a second notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without HACLB approval will be denied assistance based on the applicant's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

PHA Policy

If an applicant is determined ineligible, HACLB will send written notification of the proposed determination and provide ten (10) business days to dispute the accuracy and/or relevance of the information used for the determination. If the applicant does not dispute the information within the 10-day period, HACLB will proceed with issuing a Notice of Denial. HACLB will provide notification to the preferred method of contact within ten (10) business days.

If an applicant fails to qualify for any criteria that affected the order of selection from the waiting list, e.g. targeted funding, extremely low-income, the applicant will be returned to the waiting list. When an applicant is returned to the waiting list, HACLB will notify the applicant in writing and specify the reasons.

If HACLB determines that the applicant is eligible to receive assistance, HACLB will invite the applicant to attend a Voucher briefing (Chapter 5 of this Plan).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

This chapter explains the briefing and Voucher issuance process. When an applicant is determined to be eligible for the Housing Choice Voucher (HCV) program, the Housing Authority of the City of Long Beach (HACLB) ensures that the applicant fully understands the way the program operates and the Family Obligations under the HCV program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information. Once the family is fully informed of the HCV program requirements, HACLB issues a Voucher. The Voucher includes the housing unit size the family qualifies for, based on HACLB's Subsidy Standards, as well as the dates of issuance and expiration. The Voucher is the document that permits the family to begin their search for a unit and limits the amount of time the family has to successfully locate an acceptable unit.

This chapter describes U.S. Department of Housing and Urban Development (HUD) regulations and Public Housing Agency (PHA) policies related to these topics in two parts:

> Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.
>
> Part II: Subsidy Standards and Voucher Issuance. This part discusses HACLB's standards for determining how many bedrooms an applicant qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how Vouchers are issued and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

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

5-I.B. BRIEFING [24 CFR §982.301]

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

At the briefing, PHAs must ensure effective communication, in accordance with the Section 504 requirements of the Rehabilitation Act of 1973 and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

PHA Policy
Briefings will be conducted in groups. Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, HACLB may approve another adult family member to attend the briefing.

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

Briefings will be conducted in English. For applicants with Limited-English Proficiency (LEP), HACLB will provide translation services in accordance with HACLB's Language Access Plan (LAP) upon request. (see Chapter 2)

Notification and Attendance

PHA Policy
Notification of eligibility will be included with the Briefing appointment letter sent to applicants. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. HACLB will notify applicants of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without HACLB approval, will be denied assistance (see Chapter 3).

Oral Briefing [24 CFR §982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside PHA's jurisdiction;
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA's jurisdiction or outside HACLB's jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, HUD Notice PIH or court order;
- The PHA must inform the family of how portability may affect the family's assistance through screening, Subsidy Standards, Payment Standards and any other elements of the portability process which may affect the family's assistance;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- The advantages of areas that do not have a high concentration of low-income families; and
- For families receiving welfare-to-work, a description of any local obligations and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

Briefing Packet [24 CFR §982.301(b)]
Documents and information provided in the briefing packet includes the following:

- The term of the Voucher and the PHA's policies on any extensions or suspensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the Housing Assistance Payment, including how the PHA determines the Payment Standard, how the PHA determines Total Tenant Payment, information on the Payment Standard and Utility Allowance Schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For an applicant that qualifies to lease a unit outside of the PHA's jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required Tenancy Addendum, which must be included in the lease.
- The form the family must use to request approval of the assisted tenancy and an explanation of how to request such approval.
- A statement of the PHA Policy on providing information about families to prospective owners.
- PHA Subsidy Standards including when and how exceptions are made.
- The HUD brochure on how to select a unit entitled *A Good Place to Live!*.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of property owners or other parties willing to lease to families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the HCV program, including any obligations of a welfare-to-work family.
- The advantages of areas that do not have a high concentration of low-income families.
- The grounds by which the PHA may terminate assistance for a participant family because of the family's action or failure to act.
- The PHA's Informal Hearing procedures including when the PHA is required to offer an applicant the opportunity for an Informal Hearing and how to request the hearing.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The following will also be included in the briefing packet. This information complies with SEMAP Indicator 7 - Expanding Housing Opportunities [24 CFR 985.3(g)]:

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

Additional Items to Be Included in the Briefing Packet

In addition to items required by the regulations, the PHA may wish to include supplemental materials to help explain the program to both participants and owners. [HCV Guidebook, Chapter 8, page 8-7 and Notice PIH 2017-12]

PHA Policy

HACLB will provide the following additional materials in the briefing packet:

- Information about the protections afforded by the Violence Against Women Reauthorization Act of 2013 (VAWA) to victims of domestic violence, dating violence and stalking (see section 16-IX.C);
- "Is Fraud Worth It?" (Form HUD-1141-OIG), which explains the types of actions an applicant must avoid and the penalties for program abuse;
- "What You Should Know about EIV," a guide to the HUD's Enterprise Income Verification (EIV) system. [Attachment to Notice PIH 2017-12]

5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in Housing Choice Voucher (HCV) regulations and on the Voucher - Form HUD-52646. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA informs families of these obligations during the oral briefing and the same information is included in the briefing packet. When the family's unit is approved and the HAP Contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Timeframes for Reporting Changes Required by Family Obligations

PHA Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify HACLB of a change, notifying HACLB of the request or change within ten (10) business days is considered prompt notice. When an applicant is required to provide notice to HACLB, the notice must be in writing via e-mail or paper notification.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Family Obligations [24 CFR §982.551]
Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR Part 5). "Information" includes any requested certification, release or other documentation.

- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

- The family must disclose and verify social security numbers (as provided by Part 5, Subpart B of title 24) and must sign and submit consent forms for obtaining information in accordance with part 5, subpart B of title 24.

- Any information supplied by the family must be true and complete.

- The family is responsible for any Housing Quality Standards (HQS) breach caused by family, as described in 24 CFR §982.404(b).

  PHA Policy
  The family must pay utility bills and provide and maintain appliances that the owner is not required to provide under the lease. [Form HUD-52646, Voucher]

  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 is considered an HQS breach.

  Damages beyond normal wear and tear will be considered to be damages, which could be assessed against the security deposit.

- The family must allow the PHA to inspect the housing unit at reasonable times and after reasonable notice. (see Chapter 8)

- The family must not commit any serious or repeated violation of the lease. Under 24 CFR, Subpart L §5.2005(c), an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated lease violation by the victim, or threatened victim, of the domestic violence, dating violence, sexual assault, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.

  PHA Policy
  HACLB will determine if a family has committed serious or repeated violations of the lease based on available evidence, including, but not limited to, a court-ordered eviction.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Serious and repeated lease violations include, but are not be limited to: nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the housing 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.

- The family must notify the PHA and the owner before moving out of the housing unit or terminating the lease on notice to the owner. [24 CFR §982.354(d)]

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

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

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

  PHA Policy
  The request to add a family member must be submitted in writing and approved prior to the person moving into the housing unit. HACLB will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the housing unit.

- If the PHA has given approval, a foster child or a live-in aide may reside in the housing unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide and to define when PHA consent may be given or denied. (For policies related to the request and approval/disapproval of foster children, foster adults and live-in aides, see Chapter 3 (sections I.K and I.M) and Chapter 11 (section II.B).

- Members of the household may engage in legal profitmaking activities in the housing unit, but only if such activities are incidental to primary use of the unit for residence by members of the family.

- The family must not sublease the unit or let the unit.

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

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

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- The family must supply any information or certification requested by the PHA to verify that the family is living in the unit, or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose. The family must promptly notify the PHA of absence from the unit.

  PHA Policy
  Notice is required under this provision only when all family members will be absent from the housing unit for an extended period. An extended period is defined as any period greater than 60 calendar days. Written notice must be provided to HACLB at the start of the extended absence.

- The family must not own or have any interest in the unit, other than a cooperative and owners of a manufactured home leasing a manufactured home space.

- The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs. (see Chapter 14, Program Integrity)

- The members of the household must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (see 24 CFR §982.553). Under 24 CFR 5.2005(b)(2), criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, engaged in by a member of a tenant's household or any quest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or an affiliated individual of the tenant, as defined in 24 CFR §5.2003, is the victim. (see Chapter 12 for HUD and HACLB policies related to drug-related and violent criminal activity)

- The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. (see Chapter 12 for a discussion of HUD and HACLB policies related to alcohol abuse)

- An assisted family, or members of the family, must not receive Section 8 tenant based, i.e. Housing Choice Voucher program, assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, state or local housing assistance program. (see 9-I.D. Eligible Units)

- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless HACLB has determined (and has notified the owner and the family of such determination) that approving the housing unit, notwithstanding such relationship, would provide Reasonable Accommodation for a family member who is a person with disabilities. [24 CFR §982.306(d)]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

The PHA must establish Subsidy Standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies used to determine the Voucher's unit size and the policies that govern making exceptions to those standards. PHAs must also establish policies related to Voucher issuance, the Voucher term and any extensions or suspensions of the Voucher term.

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

PHAs determine the appropriate number of bedrooms under their Subsidy Standards and enters the unit size on the Voucher. The unit size does not dictate the size of unit that must be leased, nor does it determine who within a household will share a bedroom or sleeping room.

The following requirements apply when PHAs determine the Voucher unit size:

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

PHA Policy

Subsidy Standards for Voucher Issuance:
Generally, HACLB will assign one bedroom for each two persons within the household, with an additional bedroom for a remaining family member, except in the following circumstances:

- Live-in aides will be allocated a separate bedroom. Only one additional bedroom will be provided. If a live-in aide's family would create overcrowding beyond the one bedroom, the live-in aide will be denied.

- Single person families will be allocated one bedroom.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Occupancy Standards:
HACLB's Occupancy Standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The occupancy maximums below may be exceeded if the unit has a room or rooms in addition to bedrooms and living room which may be used for sleeping, under HQS:

Voucher Size	Persons in Household (Minimum - Maximum)
0 Bedroom	1-2
1 Bedroom	1-3
2 Bedroom	2-5
3 Bedroom	5-7
4 Bedroom	7-9
5 Bedroom	9-11
6 Bedroom	11-13

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR §982.402(b)(8)]
In determining the Voucher unit size for a particular family, PHAs may grant an exception to their established Subsidy Standards, if an exception is justified by the age, sex, health, handicap or relationship of family members or other personal circumstances.

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.

PHA Policy
HACLB will only consider granting an exception for Reasonable Accommodations. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition

The family must request any exception to the Subsidy Standards in writing. The request must explain the need or justification for a larger Voucher size and must include appropriate documentation. (see Chapter 2, Part II)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

Eligible applicants selected from the waiting list and Special Admissions are issued a Voucher – Form HUD-52646. This chapter provides information on Voucher issuance for applicants. For Voucher issuance associated with participants, refer to Chapter 10.

The Voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies and includes both the date of Voucher issuance and expiration. It contains a brief description of how the program works and explains the family obligations under the program. The Voucher is evidence that the PHA determined the family to be eligible for the HCV program and that the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, PHAs do not have any liability to any party by the issuance of a Voucher and a Voucher does not give the family any right to participate in the HCV program.

A Voucher can be issued to an eligible applicant, based on information received within the 60 days prior to issuance. [24 CFR §982.201(e) and HCV GB, Chapter 8, page 8-1]

The PHA should have sufficient funds to house an applicant before issuing a Voucher. If funds are insufficient to house the applicant at the top of the waiting list, HACLB will wait until adequate funds exist before contacting applicant(s). [HCV GB, page 8-10]

If a PHA determines that there is insufficient funding after a Voucher is issued, the PHA may rescind the Voucher and place the applicant back on the waiting list.

> PHA Policy
> Prior to issuing Vouchers, HACLB will determine whether there is sufficient HCV funding, in accordance with the policies in Part VIII of Chapter 16. If insufficient funding is determined after a Voucher is issued, HACLB will rescind the Voucher and place the affected applicant back on the waiting list.

5-II.E. VOUCHER TERM, EXTENSIONS and SUSPENSIONS

Voucher Term [24 CFR §982.303]

The initial term of a Voucher must be stated and be at least 60 calendar days.

> PHA Policy
> The initial Voucher term will be from 90 to 120 calendar days, with the option of extension(s), based on current rental market trends. Extensions will be considered, based on documented evidence of a rental unit search or Reasonable Accommodation. The family must submit a Request for Tenancy Approval and lease within the Voucher term, unless an extension is granted by HACLB.
>
> If the Voucher has expired, including any extensions, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit, if there is an assisted lease/contract in effect.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Extensions of Voucher Term [24 CFR §982.303(b)]
PHAs have the authority to grant extensions of search time, to specify the length of an extension and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that a PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's Administrative Plan. [24 CFR §982.54]

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

The Voucher holder must be notified in writing of a PHA's decision to approve or deny an extension. A PHA's decision to deny a request for an extension of the Voucher term is not subject to an Informal Review. [24 CFR §982.554(c)(4)]

PHA Policy
HACLB may approve an extension, upon written request from the family, if the family can document difficulties or obstacles in locating an acceptable unit. In order for HACLB to approve this extension, the family must provide a housing search log documenting their efforts to lease.

Extensions may be granted in 30, 60 or 120-day increments, up to a maximum of 180 calendar days.

Supervisors may authorize extensions up to a maximum term of 270 calendar days for extenuating circumstances. Such matters will be considered on an individual basis and must be supported by verifiable third-party documentation.

An exception to HACLB's extension policy may be granted, with an approved Reasonable Accommodation, not to exceed 365 calendar days.

HACLB will approve additional extensions only in the following circumstances:

- It is necessary as a Reasonable Accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family's control, as determined by HACLB.

The following is a list of examples of extenuating circumstances that HACLB may consider for Voucher extensions. The presence of these circumstances does not guarantee that an extension will be granted:

- Serious illness, death in the family, or other family emergency;
- Whether family size or other special requirements make finding a unit difficult;
- When current market trends indicate significant barriers to lease up such as low housing inventory, inflated rental market, etc.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

All requests for Voucher extensions must be made in writing and submitted to HACLB prior to the expiration date of the Voucher (or extended term of the Voucher).

HACLB will decide whether to approve or deny an extension request within fifteen (15) business days of the receipt of a request and supporting documentation and will immediately provide the family written notice of the decision.

Suspensions of Voucher Term [24 CFR §982.303(c)]
PHAs must provide for suspension of the initial or any extended term of the Voucher from the date the family submits a request for PHA-approval of the tenancy until the date the family is notified in writing whether the request is approved or denied.

Expiration of Voucher Term [HCV GB, Chapter 8, page 8-13]
Once an applicant's Voucher term expires, including any extensions, the applicant is no longer eligible to search for housing under the HCV program. If the family still wishes to receive assistance, the PHA may require that the family reapply or may place the family on the waiting list with a new application date. In either case, an applicant does not become ineligible for the HCV program on the grounds of not locating a unit before the Voucher expired.

PHA Policy
If an applicant family's Voucher term or extension expires before the family submits a Request For Tenancy Approval (RFTA), HACLB will require the family to reapply for assistance when the waiting list is open.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Subtitle A, Part 5, Subpart E and Subpart F]

INTRODUCTION

An applicant's income determines eligibility for assistance, is also used to calculate the family's share of rent and the subsidy paid by the Public Housing Authority (PHA). As a PHA, Housing Authority of the City of Long Beach (HACLB) uses the policies and methods described in this chapter to ensure that only eligible families receive assistance and that a family pays the correct amount of tenant rent Housing Choice Voucher (HCV) program regulations. This chapter describes U.S. Department of Housing and Urban Development (HUD) regulations and HACLB policies related to these topics in three parts as follows:

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

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

- Part III: Calculating Family Share and the Housing Assistance Payment (HAP). This part describes the statutory formula for calculating Total Tenant Payment (TTP), the use of Utility Allowances and the methodology for determining the family share and Housing Assistance Payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The regulatory definition of *annual income* is located at: 24 CFR §5.609.

> 24 CFR §5.609 - Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
> (1) Go to or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
> (3) Which are not specifically excluded in paragraph. [24 CFR §5.609 (c)]
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

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

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately. [24 CFR §5.609(b) and (c)]

In this Plan, the discussions of income inclusions and exclusions are integrated by topic, e.g. all policies affecting earned income are discussed together in section 6-I.D. Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Temporarily Absent Family Members [HCV Guidebook, Chapter 5, page 5-18]
The income of family members approved to live in the housing unit will be counted, even if the family member is temporarily absent from the housing unit.

PHA Policy
Generally, an individual who is or is expected to be absent from the assisted unit for 30 consecutive days or less is considered temporarily absent and will continue to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 30 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

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

Absences Due to Placement in Foster Care
Children temporarily absent from the home as a result of placement in foster care are considered members of the family. [24 CFR §5.403]

PHA Policy
If a child is placed in foster care, HACLB 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 will be returned to the home in less than 30 calendar days, the child will be removed as a family member.

Absent Head of Household, Spouse or Co-head

PHA Policy
An employed head of household, spouse or co-head absent from the housing unit more than 30 consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons
If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted. [HCV Guidebook, Chapter 5, page 5-13]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy
HACLB will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent.

However, if a family member is confined for more than 180 calendar days, they will be considered permanently absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Joint Custody of Dependents

PHA Policy
Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time.

When more than one applicant or participant claims the same dependent as a family member, the family with primary custody at the time of admission or reexamination will be able to claim the dependent. If there is a dispute about which family should claim them, HACLB will make the determination based on available documents such as court orders, an IRS return showing which family claimed the child for income tax purposes or school records.

Caretakers for a Child

PHA Policy
If neither a parent nor a designated guardian remains in a household receiving HCV assistance, HACLB will take the following actions.

(1) If a responsible agency determines that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 180 calendar days. After the 180 calendar days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases HACLB will extend the caretaker's status as an eligible visitor.
(3) At any time that custody or guardianship legally is awarded to a caretaker, the Housing Choice Voucher will be transferred to the caretaker.
(4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

6-I.C. ANTICIPATING ANNUAL INCOME [24 CFR §5.609(a)(2)]

PHAs are required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date". Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection [24 CFR §5.609(d)]

PHAs generally use current circumstances to determine anticipated income for the upcoming 12-month period. HUD authorizes PHAs to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected;
- It is not feasible to anticipate a level of income over a 12-month period (e.g. seasonal or cyclic income);
- HACLB believes that past income is the best available indicator of expected future income.

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

HUD allows PHAs to use pay-stubs to project income once EIV data is received in such cases when the family does not dispute the EIV employer data and when PHAs do not determine it is necessary to obtain additional third-party data.

PHA Policy

When EIV is obtained and the family does not dispute the EIV employer data, HACLB will use current tenant-provided documents to project annual income.

When tenant-provided documents are paystubs, HACLB will make every effort to obtain current and consecutive pay stubs dated within the last 60 calendar days.

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

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data and/or
- If HACLB determines additional information is needed.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

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

Known Changes in Income

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

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

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

Tenant-provided documents used to annualize income must be dated within the last 60 calendar days of the reexamination interview date.

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made it clear that PHAs are not to use EIV quarterly wages to project annual income.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

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

> PHA Policy
> For persons who receive bonuses or commissions, HACLB verifies and averages amounts received for the two years preceding admission or reexamination. If only a one-year history is available, prior year amounts will be used. In either case, the family may provide and HACLB will consider, a credible justification for not using this history to anticipate future bonuses or commissions.
>
> If a new employee has not yet received any bonuses or commissions, HACLB will count only the amount estimated by the employer.

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

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring or Sporadic Income [24 CFR §5.609(c)(9)]
This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days per year and not culminating in permanent employment. [Notice PIH 2017-05]

> PHA Policy
> Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally, as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings
Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. [24 CFR §5.609(c)(1)]

Certain Earned Income of Full-Time Students [24 CFR §5.609(c)(11)]
Earnings in excess of $480 for each full-time student 18 years old or older (except for the head of household, spouse or co-head) are not counted. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program. [HCV Guidebook, Chapter 5, page 5-29]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Income of a Live-in Aide [24 CFR §5.403 and 24 CFR §5.609(c)(5)]
Income earned by a live-in aide is not included in annual income.

Income Earned under Certain Federal Programs [24 CFR §5.609(c)(17)]
Income from some federal programs is specifically excluded from consideration as income including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. §5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. §1552(b))
- Awards under the federal work-study program (20 U.S.C. §1087uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. §3056(f))
- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. §12637(d))
- Allowances, earnings and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. §2931)

Resident Service Stipend [24 CFR §5.600(c)(8)(iv)]
Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Programs –
Incremental earnings and benefits to any family member resulting from participation in a qualified state or local employment training program, training programs not affiliated with a local government, and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period or participation in the training program. [(24 CFR §5.609(c)(8)(v)) and HCV Guidebook, Chapter 5, page 5-20]

> PHA Policy
> HACLB defines *training program* as "a learning process with goals and objectives, generally having a variety of components and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill; (2) on-the-job training with wages subsidized by the program; or (3) basic education". [expired Notice PIH 1998-2, page 3]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HACLB defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program. [expired Notice PIH 1998-2, pages 3–4]

In calculating the incremental difference, HACLB will use as the pre-enrollment income the total annualized amount of welfare assistance and earnings reported on the family's most recently completed Form HUD-50058.

End of participation in a training program must be reported in accordance with HACLB's interim reporting requirements.

HUD-Funded Training Programs

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

PHA Policy

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

Earned Income Tax Credit

Earned Income Tax Credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. §32(j)), are excluded from annual income. [24 CFR §5.609(c)(17)]

Earned Income Disallowance (EID)

The Earned Income Disallowance for persons with disabilities is discussed in section 6-I.E below.

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

[24 CFR §5.617: Exhibit 6-4]

The Earned Income Disallowance (EID) encourages persons with disabilities to enter the work force by not including the full value of increases in earned income for a specified period. Eligibility criteria and limitations on EID are summarized below.

Eligibility

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* is annual income that did not exceed the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage, unless there is a higher state or local minimum wage.

- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work to such families. [24 CFR §5.603(b)]

- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the Earned Income Disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income." The family member's prior or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

PHA Policy

HACLB defines *prior income or prequalifying income,* as the family member's last certified income prior to qualifying for the EID.

Timeframe for the Disallowance

The time period during which a family member is eligible to receive the benefit of the earned income disregard is 24 consecutive months. The final rule provides:

- Once a family member is determined to be eligible for the EID, the 24–calendar month period starts;
- If the family member discontinues the employment that initially qualified the family for the EID, the 24–calendar month period continues;
- During the 24-month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);
- During the first 12–month period, PHAs must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–month period, PHAs must exclude at least 50 percent of any increase in income of such family member as a result of employment over the member's income before the qualifying event (i.e. the family member's baseline income);

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- The EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- At the end of the 24 months, the EID ends regardless of how many months were "used."

Lifetime Limitation

EID has a 24-month lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance or if there are breaks in assistance.

PHA Policy

During the 24-month eligibility period, HACLB will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by EID (e.g. when an eligible family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends and at the end of 24-month eligibility period).

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

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

Business Expenses

Net income is "gross income less business expense". [HCV GB, Chapter 5, page 5-19]

PHA Policy

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

Business Expansion

HUD regulations do not permit PHAs to deduct expenses for business expansion.

PHA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities or to operate the business in additional locations.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open a second location would be considered a business expansion.

Capital Indebtedness

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

PHA Policy

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

PHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, HACLB will not count as income any withdrawals from the business up to the amount of this loan until the loan is repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-Owned Businesses

PHA Policy

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

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

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that PHAs include in annual income the "interest, dividends and other net income of any kind from real or personal property". This section discusses how the income from various types of assets is determined.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

For most types of assets, PHAs must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

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

Exhibit 6-1 provides the regulatory requirements for calculating income from assets and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and HACLB policies related to each type of asset.

General Policies

Income from Assets

PHAs generally use current circumstances to determine both the value of an asset and the anticipated income from an asset. As is true for all sources of income, HUD authorizes HACLB to use other than current circumstances to anticipate income when:

(1) an imminent change in circumstances is expected;
(2) it is not feasible to anticipate a level of income over 12 months; or
(3) HACLB believes that past income is the best indicator of anticipated income.

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

> PHA Policy
> When current circumstances are not used to determine asset income, a clear rationale for the decision will be documented. In such cases the family may present information and documentation to HACLB to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets [HCV Guidebook, Chapter 5, page 5-28]

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

- The market value of an asset is its worth, e.g. the amount a buyer would pay for real estate or the balance in an investment account.

- The cash value of an asset is the market value, less all reasonable amounts that would be incurred when converting the asset to cash.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Lump-Sum Receipts
Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if the funds are retained in a form recognizable as an asset, e.g. deposited in a savings or checking account. [RHIIP FAQs #31]

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

Imputing Income from Assets [24 CFR §5.609(b)(3)]
When net family assets are $5,000 or less, HACLB will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, HACLB will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

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

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

Jointly Owned Assets [24 CFR §5.609(a)(4)]
HUD regulation specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

> PHA Policy
> If an asset is owned by more than one person and any family member has unrestricted access to the asset, HACLB 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

Assets Disposed of for Less than Fair Market Value [24 CFR §5.603(b)]
HUD regulations require PHAs to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold [HCV Guidebook, Chapter 5, page 5-27]
The *HCV Guidebook* permits PHAs to set a threshold below which assets disposed of for less than fair market value will not be counted.

PHA Policy
HACLB will not include the value of assets disposed of for less than fair market value, unless the cumulative value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $5,000.

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

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

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

PHA Policy
All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms is received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation or court order.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Family Declaration

PHA Policy
families must sign a declaration form at initial certification and each annual reexamination identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. HACLB may verify the value of the assets disposed of if other information available to HACLB does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

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

PHA Policy
In determining the value of checking and savings accounts, HACLB will use the current month savings balance and the average balance for a three-month period for the checking account.

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

Investment Accounts, e.g. Stocks, Bonds and Money Market Funds

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

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

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g. savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g. stocks), HACLB will calculate asset income based on the earnings for the most recent reporting period.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Equity in Real Property or Other Capital Investments [HCV Guidebook, Chapter 5, page 5-25]
Equity (cash value) in a property or other capital asset is the estimated current market value of the asset, less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

> PHA Policy
> In determining equity, HACLB will determine market value by utilizing reputable online resources. HACLB will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, HACLB will use the basic loan balance information to deduct from the market value in the equity calculation.

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

- Equity accounts in HUD Homeownership programs. [24 CFR §5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home. [24 CFR §5.603(b) and Notice PIH 2012-03]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives.
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset and income related to this asset will be calculated, as described in section 6-I.F.
- Interests in Indian Trust lands. [24 CFR §5.603(b)]
- Real property and capital assets that are part of an active business or farming operation. [HCV Guidebook, Chapter 5, page 5-25]

PHAs must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value minus the loan (mortgage) minus the expenses to convert to cash. [Notice PIH 2012-03]

> PHA Policy
> For the purposes of calculating expenses to convert to cash for real property, HACLB will use a safe harbor of ten percent of the market value of the home.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

PHA Policy

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

Trusts

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

Revocable Trusts [HCV Guidebook, Chapter 5, page 5-25]

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

Nonrevocable Trusts

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

Retirement Accounts [HCV Guidebook, Chapter 5, page 5-26]

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset amounts in a retirement or pension account, PHAs must know whether the money is accessible before retirement. While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member. The balance in the account is an asset only if it remains accessible to the family member. (for more on periodic payments, see section 6-I.H)

IRA, Keogh and Similar Retirement Savings Accounts [HCV Guidebook, Chapter 5, page 5-25]

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Personal Property [HCV Guidebook, Chapter 5, page 5-25]
Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

PHA Policy
In determining the value of personal property held as an investment, HACLB will use the family's estimate of the value. HACLB may obtain an appraisal to confirm the value of the asset 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 and cannot be charged any costs related to the appraisal.

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

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

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

Life Insurance
The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. [HCV Guidebook, Chapter 5, page 5-25]

The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated dividends or interest is counted as income whether or not it is received.

6-I.H. PERIODIC PAYMENTS
Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income [24 CFR §5.609(b)(4) and (b)(3)]

- Periodic payments from sources such as social security, unemployment, welfare assistance, annuities, insurance policies, retirement funds and pensions. However, periodic payments from retirement, annuities and similar forms of investments are counted only after the payments exceed the amount contributed by the family.

- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum. [24 CFR §5.609(b)(4) and HCV Guidebook, Chapter 5, page 5-14]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Lump-Sum Payments for the Delayed Start of a Periodic Payment
Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. [24 CFR §5.609(b)(4)]

Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income. [FR Notice 11/24/08]

> PHA Policy
> When a delayed-start payment is received and reported during the period in which HACLB is processing an annual reexamination, HACLB will adjust the family share and HACLB subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with HACLB.

Treatment of Overpayment Deductions from Social Security Benefits
PHAs must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, PHAs must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. [Notice PIH 2012-10]

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone). [24 CFR §5.609(c)(2)]
- Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income. [Notice PIH 2012-01]

> PHA Policy
> HACLB will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency. [HCV Guidebook, Chapter 5, page 5-18]

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home. [24 CFR §5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. §1626(c)). [24 CFR §5.609(c)(17)]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. §9858q). [24 CFR §5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments. (26 U.S.C. §32(j)) [24 CFR §5.609(c)(17)] *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J). [24 CFR §5.609(b)(4)]
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA). [FR Notice 11/24/08]

6-I.I. PAYMENTS IN LIEU OF EARNINGS [24 CFR §5.609(b)(5)]
Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay, are counted as income, if the payments are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment.

If payments in lieu of earnings are received in a one-time lump sum, e.g. as a settlement, the payment is treated as lump-sum receipts. [24 CFR §5.609(c)(3)] (see the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G)

6-I.J. WELFARE ASSISTANCE

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

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR §5.615]
PHAs must make a special calculation of annual income when a welfare agency imposes certain sanctions on families. The full text of the regulation is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family received HCV assistance at the time the sanction was imposed.

Covered Families
The families covered by 24 CFR §5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a state or other public agency ('welfare agency') under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance". [24 CFR §5.615(b)]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Imputed Income
When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, PHAs must include in annual income "imputed" welfare income. PHAs must request that the welfare agency report when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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

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

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR §5.609(b)(7)]
Annual income includes periodic and determinable allowances, such as alimony and child support payments and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support
PHAs must count alimony or child support amounts awarded as part of a divorce or separation agreement.

> PHA Policy
> HACLB will count court-awarded amounts for alimony and child support unless HACLB verifies that: (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments. [HCV Guidebook, Chapter 5, page 5-23 and 5-47]
>
> Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts [24 CFR §5.609]
PHAs must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family. Temporary, nonrecurring or sporadic income and gifts are not counted.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

Examples of regular contributions include: (1) regular payment of a family's bills (e.g. utilities, telephone, rent, credit cards and car payments), (2) cash or other liquid assets provided to any family member on a regular basis and (3) "in-kind" contributions such as groceries and clothing provided on a regular basis.

Nonmonetary contributions are valued at the cost of purchasing the items, as determined by HACLB. For contributions that vary from month to month (e.g. utility payments), HACLB will calculate an average based on past history.

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR §5.609(b)(9), FR 4/10/06 and Notice PIH 2015-21]

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

Student Financial Assistance Included in Annual Income

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule: http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf

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

- The student is enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- The student is seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the Project-Based Voucher program or the moderate rehabilitation program.
- The student is under 24 years of age **OR** has no dependent children.

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

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

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program and Federal Work Study programs.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians and other persons not residing in the assisted unit.
- *Tuition and fees* are defined in the same manner in which the Department of Education defines "tuition and fees." [Notice PIH 2015-21]
    - The amount of tuition and required fees covering a full academic year most frequently charged to students.
    - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
    - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
    - Required fees include all fixed sum charges required by a large proportion of students, e.g. writing and science lab fees and fees specific to a student's major or program (i.e. nursing program).
    - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans and other non-fixed sum charges.

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

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

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR §5.609]
Other exclusions that have not been discussed earlier in this chapter include:

- Reimbursement of medical expenses [24 CFR §5.609(c)(4)];
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and allow participation in a specific program [24 CFR §5.609(c)(8)(iii)];
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR §5.609(c)(8)(ii)];
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR §5.609(c)(10)];
- Adoption assistance payments in excess of $480 per adopted child [24 CFR §5.609(c)(12)];

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Refunds on property taxes paid on the dwelling unit [24 CFR §5.609(c)(15)];
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR §5.609(c)(16)];
- Amounts specifically excluded by any other federal statute [24 CFR §5.609(c)(17)]

  HUD publishes an updated list of these exclusions periodically. It includes:

  - The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. §2017 (b))
  - Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. §5044(g), 5058)
  - Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. §1626(c))
  - Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. §459e)
  - Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. §8624(f))
  - Payments received under programs funded in whole or in part under the Job Training Partnership Act (JTPA) (29 U.S.C. §1552(b)). Effective July 1, 2000, references to JTPA shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. §2931))
  - Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
  - The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. §1407-1408)
  - Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. §3056(f))
  - Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
  - Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. §1721)
  - The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. §9858q)
  - Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. §32(j))
  - Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. §12637(d))
- Any allowance paid under the provisions of 38 U.S.C. §1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. §1805)
- Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. §10602)
- Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. §2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

> 24 CFR §5.611(a) - Mandatory deductions. In determining adjusted income, the responsible entity [HACLB] must deduct the following amounts from annual income:
>
> (1) $480 for each dependent;
> (2) $400 for any Elderly family or Disabled family;
> (3) The sum of the following, to the extent the sum exceeds 3% of annual income:
> (i) Unreimbursed medical expenses of any Elderly family or Disabled family;
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

Anticipating Expenses

PHA Policy

Generally, HACLB will use current circumstances to anticipate expenses. For costs that are expected to fluctuate during the year, e.g. child care during school and non-school periods and cyclical medical expenses, HACLB will estimate costs based on historic data and known future costs.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If a family accumulates debt for medical or disability assistance expenses, HACLB will include as an eligible expense the portion of the debt that the family expects to pay for the reexamination period. Amounts previously deducted will not be allowed even if the amounts were not paid as expected. The family may be required to provide documentation of the preceding year's payments.

6-II.B. DEPENDENT DEDUCTION [24 CFR §5.611(a)(1)]
A deduction of $480 is taken for each dependent, defined as any family member other than the head of household, spouse or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults and live-in aides are never considered dependents. [24 CFR §5.603(b)]

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION [24 CFR §5.403]
A single deduction of $400 is taken for any elderly or disabled family. [24 CFR §5.611(a)(2)]

An *Elderly Family* is a family whose head of household, spouse, co-head or sole member is at least 62 years of age or older. It may include two or more persons who are at least 62 years of age living together, or one or more persons 62 years of age who are living with one or more live-in aides.

A *Disabled Family* means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR §5.611(a)(3)(1)(i)]
Unreimbursed medical expenses may be deducted in combination with any disability assistance expenses. This allowance is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds three percent (3%) of gross annual income. However, the allowance may not exceed the earned income received by the adult family member who is able to work due to attendant care or auxiliary apparatus.

The medical expense deduction is permitted only for families in which the head of household, 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. [Notice PIH 2004-01 Verification Guidance, page 28]

Definition of Medical Expenses [24 CFR §5.603(b)]
HUD regulations define *medical expenses* as "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed and that are not covered by insurance."

PHA Policy
The most current IRS Publication 502, *Medical and Dental Expenses,* will be used to determine the costs that qualify as medical expenses.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent the expenses are not reimbursed by insurance or some other source.

Families That Qualify for Both Medical and Disability Assistance Expenses

PHA Policy

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, HACLB will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR §5.603(b) and 24 CFR §5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a Disabled family member may be deducted if the expenses:

(1) are necessary to enable a family member 18 years or older to work;
(2) are not paid to a family member or reimbursed by an outside source;
(3) in combination with medical expenses, exceed 3% of annual income; and
(4) do not exceed the earned income received by the family member who is enabled to work.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Earned Income Limit on the Disability Assistance Expense Deduction
A family can qualify for a disability assistance expense deduction if at least one member (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.

> PHA Policy
> The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, HACLB 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 HACLB determines that disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' income.

Eligible Disability Expenses [HCV Guidebook, Chapter 5, page 5-30]
Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work". HUD advises HACLB to further define and describe auxiliary apparatus. [Notice PIH 2004-01 Verification Guidance, page 30]

Eligible Auxiliary Apparatus

> PHA Policy
> Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g. a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming and other continuing costs of care, will be included.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments and readers for persons with visual disabilities.

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

If the care attendant also provides other services to the family, HACLB 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.

Payments to Family Members [24 CFR §5.603(b)]

No disability assistance expenses may be deducted for payments to a member of an assisted family. However, expenses paid to a relative who is not a member of the assisted family may be deducted if the expenses are not reimbursed by an outside source.

Necessary and Reasonable Expenses

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

PHA Policy

HACLB determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, HACLB will collect information from organizations that provide services and support to persons with disabilities. A family may present and HACLB will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

PHA Policy

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, HACLB will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR §5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only when such care is necessary to enable a family member to actively seek employment, be gainfully employed or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction [Notice PIH 2004-01, page 26]
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. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses. [HCV Guidebook, Chapter 5, page 5-29]

Qualifying for a Child Care Expense Deduction

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

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

Seeking Work

PHA Policy
If the child care expense 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 HACLB.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Furthering Education

PHA Policy
If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, however, the time spent in educational activities must be equivalent to the child care claimed.

Being Gainfully Employed

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

Earned Income Limit on Child Care Expense Deduction [24 CFR §5.603(b)]
When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. When child care enables a family member to work, the deduction is capped by "the employment income that is included in annual income".

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

When the person who is enabled to work is a person with disabilities who receives the Earned Income Disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for EID earns $10,000 and only $5,000 is included in annual income, child care expenses are limited to $5,000.

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to work hours. [HCV Guidebook, Chapter 5, page 5-30]

PHA Policy
When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, HACLB generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Eligible Child Care Expenses [Notice PIH 2004-01, page 26]
The type of care to be provided is determined by the assisted family. The PHA may 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.

Allowable Child Care Activities

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

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the housing unit are eligible.

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, HACLB will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities.

For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. 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.

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

PHA Policy
Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

Total Tenant Payment (TTP) Formula [24 CFR §5.628]
HUD regulations specify the formula for calculating the TTTP for an assisted family. The TTP is the highest of the following amounts, rounded to the nearest dollar:

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

The PHA has authority to suspend and exempt families from the Minimum Rent when a financial hardship exists, as defined in section 6-III.B. The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP; however, it may be greater than the TTP, depending on the rent charged for the housing unit the family selects.

***Welfare Rent** [24 CFR §5.628]*

PHA Policy: Welfare rent does not apply in this locality.

***Minimum Rent** [24 CFR §5.630]*

PHA Policy: HACLB's Minimum Rent is established at $50.

Family Share [24 CFR §982.305(a)(5) and 24 CFR §5.508]
If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable Payment Standard: (1) the family will pay more than the TTP; and (2) at initial occupancy HACLB may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's Voucher was issued.

Housing Assistance Payment (HAP) [24 CFR §982.505(b)]
PHAs pay a monthly Housing Assistance Payment (HAP) for a family that is equal to the lower of (1) the applicable Payment Standard for the family minus the family's TTP; or (2) the gross rent for the family's unit minus the TTP.

Utility Reimbursement [24 CFR §982.514(b)] 24 CFR 982.514
When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits PHAs to pay the reimbursement to the family or directly to the utility provider.

PHA Policy
HACLB will make utility reimbursements to the family.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

Overview

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

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

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state or local assistance program. This includes a family member who is a noncitizen, lawfully admitted for permanent residence under the Immigration and Nationality Act, who would be entitled to public benefits, but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

PHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

PHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

PHA Policy

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).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

(5) The family has experienced other circumstances determined by HACLB.

PHA Policy
HACLB has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

PHA Policy
HACLB defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $35.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 N/A 10% of monthly gross income $35 Welfare rent Minimum rent	$0 30% of monthly adjusted income $15 N/A 10% of monthly gross income $35 Welfare rent Minimum rent
Minimum rent applies. TTP = $35	Hardship exemption granted. TTP = $15

PHA Policy
To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

HACLB will make hardship determinations within 30 calendar days.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

No Financial Hardship
If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

PHA Policy
HACLB requires the family to repay suspended amounts within 30 calendar days of HACLB's notice that a hardship exemption was not approved.

Temporary Hardship
If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires PHAs to offer a reasonable Repayment Agreement. PHAs may also determine that circumstances have changed and the hardship is now a long-term hardship.

PHA Policy
HACLB will enter into a Repayment Agreement in accordance with the procedures found in Chapter 16 of this Plan.

Long-Term Hardship
If the PHA determines that the financial hardship is long-term, HACLB must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship is determined to be long-term, the family is not required to repay the minimum rent.

PHA Policy
The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until a new source of income is received that is at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR §982.505]

Overview

The PHA's schedule of Payment Standards is used to calculate Housing Assistance Payments for HCV families. This section covers the application of the PHA's Payment Standards. The establishment and revision of the PHA's Payment Standard schedule are covered in Chapter 16.

Payment Standard is defined as "the maximum monthly assistance payment for a family assisted in the Voucher program (before deducting the Total Tenant Payment by the family)". [24 CFR §982.4(b)]

The Payment Standard for a family is the lower of (1) the Payment Standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's Subsidy Standards [24 CFR §982.4(b)] or (2) the Payment Standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception Payment Standard for a designated part of an FMR area and a family's unit is located in the exception area, HACLB must use the appropriate Payment Standard for the exception area.

The PHA is required to pay a monthly Housing Assistance Payment (HAP) for a family that is the lower of (1) the Payment Standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP Contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial Payment Standard or the gross rent for the housing unit. [HCV GB, page 7-8]

Changes in Payment Standards

When the PHA revises the Payment Standards during the term of the HAP Contract for a family's unit, it will apply the new Payment Standards in accordance with HUD regulations.

Decrease in Payment Standard

If the amount on the Payment Standard schedule is decreased during the term of a HAP Contract, the lower Payment Standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the Payment Standard. The PHA will determine the Payment Standard for the family as follows:

Step 1: At the first regular reexamination following a decrease in the Payment Standard, the PHA will determine the Payment Standard for the family using the lower of the Payment Standard for the family unit size or the size of the assisted unit.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Step 2: The PHA will compare the Payment Standard from step 1 to the Payment Standard last used to calculate the monthly Housing Assistance Payment for the family. The Payment Standard used by the PHA at the first regular reexamination following the decrease in the Payment Standard will be the higher of these two Payment Standards. The PHA will advise the family that the application of the lower Payment Standard will be deferred until the second regular reexamination following the effective date of the decrease in the Payment Standard.

Step 3: At the second regular reexamination following the decrease in the Payment Standard, the lower Payment Standard will be used to calculate the monthly Housing Assistance Payment for the family unless the PHA has subsequently increased the Payment Standard, in which case the Payment Standard will be determined in accordance with procedures for increases in Payment Standards described below.

Increases in Payment Standard [HCV GB, page 7-8]
If the Payment Standard is increased during the term of the HAP Contract, the increased Payment Standard will be used to calculate the monthly Housing Assistance Payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the Payment Standard. families requiring or requesting interim reexaminations will not have their assistance calculated using the higher Payment Standard until their next annual reexamination.

Changes in Family Unit Size
Irrespective of any increase or decrease in the Payment Standard, if the family unit size increases or decreases during the HAP Contract term, the new family unit size must be used to determine the Payment Standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation
If a family requires a higher Payment Standard as a Reasonable Accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher Payment Standard for the family within the basic range.

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR §982.517]

Overview
The PHA's established Utility Allowance Schedule is used in determining family share and HAP subsidy. A family's Utility Allowance is determined by the lesser of the size of dwelling unit actually leased or the family unit size as determined under the PHA's subsidy standards. [FR Notice 06/25/2014 and Notice PIH 2016-05]

A PHA-established Utility Allowance Schedule is used in determining family share and HAP subsidy. The PHA must use the appropriate Utility Allowance for the size of dwelling unit actually leased, rather than the Voucher unit size for which the family qualifies under the PHA's Subsidy Standards.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Reasonable Accommodation
HCV program regulations require a PHA to approve a Utility Allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a Reasonable Accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide HACLB with an explanation of the need for the Reasonable Accommodation and information about the amount of additional allowance required. [HCV GB, Chapter 8, page 8-8]

Utility Allowance Revisions [24 CFR §982.517(d)(2)]
At reexamination, the PHA must use the current Utility Allowance Schedule

> PHA Policy
> Revised Utility Allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR §5.520]
HUD regulations prohibit assistance to ineligible family members. A *Mixed Family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a Mixed Family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the HAP subsidy for a family is calculated at $500 and two of four family members are ineligible, the HAP subsidy would be reduced to $250.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR §5.609 (a) and (b)

(a) *Annual income* means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

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

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. When the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) *Welfare assistance payments.* (i) Welfare assistance payments made under the Temporary Assistance for Needy families (TANF) program are included in annual income only to the extent such payments:

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

(A) Qualify as assistance under the TANF definition at 45 CFR 260.31; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

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

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

(9) For Section 8 programs only and as provided in 24 CFR §5.612, any financial assistance, in excess of amounts received for tuition and any other required fees and charges, that an individual receives under the Higher Education Act of 1965 (Title 20 U.S.C. §1001 et. seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (Title 20 U.S.C. §1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HEALTH AND HUMAN SERVICES DEFINITION OF "ASSISTANCE"

45 CFR: General Temporary Assistance for Needy families

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, Vouchers and other forms of benefits designed to meet a family's basic needs (i.e. food, clothing, shelter, utilities, household goods, personal care items and general incidental expenses).

(2) It includes such benefits even when the benefits are:

(i) Provided in the form of payments by a TANF agency or other agency on the agency's behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except when excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

(ii) Are not intended to meet recurrent or ongoing needs; and
(iii) Will not extend beyond four months.
(2) Work subsidies (i.e. payments to employers or third parties to help cover the costs of employee wages, benefits, supervision and training);
(3) Supportive services such as child care and transportation provided to families who are employed;
(4) Refundable earned income tax credits;
(5) Contributions to and distributions from, Individual Development Accounts;
(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement and other employment-related services that do not provide basic income support; and
(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR §5.60 (c)

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in 24 CFR §5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8)(i) Amounts received under training programs funded by HUD;

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

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

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR §5.609(c) apply. A notice will be published in the FEDERAL REGISTER and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. (see the following chart for a list of benefits that qualify for this exclusion)

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. §2017 (b));
b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. §5044(g), 5058);
c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. §1626(c));
d) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. §459e);
e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. §8624(f));
f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. §1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. §2931);
g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L 94-540, 90 Stat. 2503-04);

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. §1407-1408);
i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. §1087uu);
j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. §3056(f));
k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. §1721);
m) 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);
n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. §32(j));
o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
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 under the provisions of 38 U.S.C. §1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. §1805);
r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. §10602); and
s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. §2931).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

Net Family Assets [24 CFR §5.603(b)]

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases when a trust fund is established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under 24 CFR §5.609.

(3) In determining net family assets, PHAs shall include the value of any business or family assets disposed of for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under 24 CFR §5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 6-4: Earned Income Disallowance for Persons with Disabilities

§5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

(a) *Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher program (24 CFR part 982).

(b) *Definitions.* The following definitions apply for purposes of this section.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

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

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

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least $500.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

(c) *Disallowance of increase in annual income*—(1) *Initial 12-month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) *Second 12-month exclusion and phase-in.* Upon the expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24- month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to *May 9, 2016* will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 6-5: EFFECT OF WELFARE BENEFIT REDUCTION [24 CFR §5.615]

Public Housing program and Section 8 Housing Choice Voucher program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (24 CFR Part 960) or receive HCV tenant-based assistance (24 CFR Part 982).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered Families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits'') from a State or other public agency ("welfare agency'') under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at 24 CFR §5.603(b).

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.
(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction'' does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*
(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with 24 CFR §5.609.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member and the reason for such reduction and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of the PHA decision.*
(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Housing Choice Voucher participant. A participant in the HCV program may request an Informal Hearing, in accordance with 24 CFR §982.555, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an Informal Hearing on the determination under the PHA's hearing procedure.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

(e) *The PHA's association with welfare agency.*
(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 7

VERIFICATION

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

INTRODUCTION

The Housing Authority of the City of Long Beach (HACLB) must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. HACLB must not pass on the cost of verification to the family.

HACLB will follow the verification guidance provided by the U.S. Department of Housing and Urban Development (HUD) in Notice PIH 2017-12 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HACLB policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III) and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with HACLB's records management policies.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR §982.516, §982.551 and §5.230]

The family must supply any information that the Public Housing Agency (PHA) or HUD determines necessary in the administration of the program and must consent to verification of the information

Consent Forms

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Penalties for Failing to Consent [24 CFR §5.232]
If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an Informal Review (applicants) or Informal Hearing (participants) in accordance with the PHA's procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2017-12]
HUD authorizes PHAs to use six methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires PHAs to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification. Each of the verification methods is discussed in subsequent sections below.

PHA Policy
In order of priority, the forms of verification that HACLB will use are:

Verification Technique	Ranking
Upfront Income Verification – HUD's Enterprise Income Verification (EIV) system	**Highest** (Mandatory)
Upfront Income Verification – using non-HUD system	**Highest** (Optional) when EIV information not available (e.g. the Work Number)
Written Third-Party Documentation	**High** (Mandatory) to supplement EIV-reported income sources; or when EIV has no data; or for non-EIV reported income sources; or when family disputes the EIV report and is unable to provide acceptable documentation to support the dispute
Written Third-Party Verification to Income Source	**Medium-Low** (Mandatory if Level 3 not available or rejected by the PHA)
Oral Third-Party Verification	**Low** (Mandatory if written third-party verification is not available)
Tenant Declaration	**Low** (Use as a last resort when unable to obtain any type of third-party verification)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Requirements for Acceptable Documents

PHA Policy
Any documents used for verification must be in their original form and must be dated within 60 days of the date the documents are provided to HACLB. The documents must not be damaged, altered or in any way illegible. Print-outs from web pages are considered original documents.

Any family self-certifications must be made in a format acceptable to HACLB and must be signed in the presence of an HACLB representative.

File Documentation

PHAs must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this Plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

PHA Policy
HACLB will document, in the family file, the following:

- Reported family annual income;
- Value of assets;
- Expenses related to deductions from annual income; and
- Other factors influencing the adjusted income or income-based rent determination

When the PHA is unable to obtain third-party verification, the family's file will be documented with the reason that verification was not available. [Notice PIH 2017-12]

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification refers to the PHA'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 the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family is granted an opportunity to contest any adverse findings through the Informal Review/Hearing process of the PHA. (see Chapter 6 for the policy on the use of UIV/EIV to project annual income)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HUD's Enterprise Income Verification (EIV) System (Mandatory)
HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits and SSI benefits for participant families. HUD requires the PHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

EIV Income Reports
The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

PHA Policy
HACLB will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process. Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C.

Income reports may also be used to meet the regulatory requirement for third-party verification, as described above.

Income reports will be used in interim reexaminations to identify discrepancies between reported income and income shown in the EIV system and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

When HACLB determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification
The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name and date of birth. PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV. [Notice PIH 2012-10]

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

PHA Policy
On a monthly basis, HACLB will identify participants with failed identity verification results by reviewing EIV's *Identity Verification Report*. Staff will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the family. When HACLB determines that a discrepancy exists due to an administrative error, such as spelling or incorrect birth dates, the error will be corrected promptly.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Upfront Income Verification Using Non-HUD Systems (Optional)
In addition to mandatory use of the EIV system, HUD encourages HACLB to utilize other upfront verification sources.

PHA Policy
HACLB will inform all applicants and participants of the use of the following UIV resources during the admission and reexamination process:

- HUD's EIV system
- The Work Number
- Child support data
- TANF data
- CoreLogic real estate data
- Tax assessor data

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2017-12]
Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: paystubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts and unemployment monetary benefit notices.
The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

PHAs may reject documentation provided by the family if the document is not an original, if the document appears to be forged or if the document is altered, mutilated or illegible.

PHA Policy
Third-party documents provided by the family must be dated within 60 days of HACLB's request date. If HACLB determines that third-party documents provided by the family are not acceptable, HACLB will explain the reason to the family and request additional documentation.

As verification of earned income, HACLB will request one month's current and consecutive pay stubs, unless the information is insufficient to annualize income. In such case, additional information will be requested.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Written Third-Party Verification Form
When upfront verification is not available and the family is unable to provide written third-party documents, PHAs must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced with the use of family-provided third-party documents.

Written third-party verification is mandatory when there is an unreported source of income or a substantial difference in reported income ($2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy. PHAs may mail, fax or e-mail third-party written verification forms to third-parties.

> PHA Policy
> HACLB will send third-party verification forms directly to the third party. Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by HACLB.

Oral Third-Party Verification [Notice PIH 2017-12]
For third-party oral verification, HACLB contact sources, identified by UIV techniques or by the family, by telephone or in person. Oral third-party verification is mandatory if neither form of written third-party verification is available. Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time, e.g. ten (10) business days.

PHAs should document the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the confirmed information.

> PHA Policy
> In collecting third-party oral verification, HACLB staff will record the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used and the facts provided. When a source responds verbally to a written verification, HACLB will accept the verbal response as oral verification, and will request that the verification be returned.

When Third-Party Verification is Not Required [Notice PIH 2017-12]
Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets or expenses when these items would have a minimal impact on TTP.

> PHA Policy
> If the family cannot provide original documents, HACLB will require that the client obtain electronic access to the information if possible.
>
> The cost of postage and envelopes to obtain third-party verification of income, assets and expenses is not an unreasonable cost. [Notice PIH 2004-01, Verification Guidance, page 18]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Primary Documents
Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets
HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value. [HCV Guidebook, Chapter 5, page 5-28]

PHA Policy
HACLB will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

7-I.E. SELF-CERTIFICATION
Self-certification or "tenant declaration," is used as a last resort when HACLB is unable to obtain third-party verification.

When a PHA relies on a tenant declaration for verification of income, assets or expenses, the family's file must be documented to explain why third-party verification was not available.

PHA Policy
When information cannot be verified 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 provided to HACLB.

HACLB 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 to HACLB and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of an HACLB representative.

PART II: VERIFYING FAMILY INFORMATION
7-II.A. VERIFICATION OF LEGAL IDENTITY

PHA Policy
HACLB will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity	
Adults	**Children**
Certificate of birth, naturalization papers Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) U.S. passport Baptismal document	Certificate of birth Adoption papers Legal custody agreement

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

If none of these documents can be provided and at HACLB'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 HACLB and be signed in the presence of an HACLB representative or HACLB notary public.
Legal identity is verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR §5.216 and Notice PIH 2012-10]
The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

Acceptable evidence of a social security number consists of:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the individual's name and SSN
- An original document issued by a federal, state or local government agency, which contains the name and SSN of the individual

PHAs may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document is altered, mutilated or is not legible or if the document appears to be forged.

PHA Policy
HACLB will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to HACLB within 90 calendar days.

When the participant requests to add a new household member who is at least 6 years of age or who is under the age of 6 and has an SSN, the participant 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. PHAs may not add the new household member until such documentation is provided.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of their control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

PHA Policy
HACLB will grant one additional 90-day extension if needed for reasons beyond the individual's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family or other emergency.

Social security numbers must be verified only once during continuously-assisted occupancy.

PHA Policy
HACLB will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," PHAs may, at their discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

PHA Policy
Once an individual's status is classified as "verified" in HUD's EIV system, HACLB will not remove or destroy copies of documentation accepted as evidence of social security numbers.

7-II.C. DOCUMENTATION OF AGE

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

PHA Policy
If an official record of birth or evidence of social security retirement benefits cannot be provided, HACLB will require the family to submit other documents that support the reported age of the family member and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility Chapter.

PHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships. However, HACLB reserves the right to request reasonable documentation if a relationship is unclear or is misrepresented.

Marriage

PHA Policy

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).

Certification by the head of household may be accepted when reasonable attempts have been made to provide requested documentation. HACLB reserves the right to require documentation when there is reasonable doubt regarding marital relationship.

Separation or Divorce

PHA Policy

HACLB will require the family to document a divorce or separation. A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation. If no court document is available, documentation from a community-based agency will be accepted.

Certification by the head of household may be accepted when other reasonable attempts have been made to provide requested documentation.

The PHA reserves the right to require documentation when there is reasonable doubt regarding marital relationship.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Absence of Adult Member

PHA Policy
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.

The PHA will not remove the income of an adult member from the household share calculation until such evidence is provided.

Foster Children and Foster Adults

PHA Policy
Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

HACLB may accept verbal confirmation of placement from a representation of the Department of Social Services on an interim basis, in order to address emergency placement. In such cases, staff will annotate the file with the representative's name who provided the information, indicating if temporary approval for the placement was granted.

Written confirmation of placement will be required within 60 calendar days of placement, unless HACLB grants an extension for the documentation.

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

PHA Policy
HACLB requires families to provide information on the student status of all students who are 18 years of age or older. This information is verified when:

- The family reports full-time student status for an adult other than the head of household, spouse or co-head.
- The family reports child care expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education.*

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

In accordance with the verification hierarchy described in Section 7-1.B, HACLB will determine whether a student is exempt from the restrictions in 24 CFR §5.612 by verifying any one of the following exemptions:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in section 3-II.E.
- The student is a person with disabilities, as defined in section 3-II.E and was receiving assistance prior to November 30, 2005.

If HACLB cannot verify at least one of the exemptions, the student will be determined to be subject to the restrictions on assistance at 24 CFR §5.612.

In addition to verifying the student's income eligibility, HACLB will proceed to verify either the parents' income eligibility or the student's independence from his/her parents.

Independent Student

PHA Policy

HACLB will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether a student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether a student meets the U.S. Department of Education's definition of *independent student;*
- Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent; and
- Requesting and obtaining written certification directly from the student's parents identifying the amount of support that will be providing to the student, even if the amount of support is $0.

7-II.F. DOCUMENTATION OF DISABILITY

PHAs must verify the existence of a disability in order to allow certain income disallowances and deductions from income. However, PHAs are not permitted to inquire about the nature or extent of a person's disability. [24 CFR §982.202(c)]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHAs may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If a PHA staff member receives a verification document that provides such information, the information will not be placed in the family's file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at www.os.dhhs.gov.

The above cited regulation does not prohibit the following inquiries, provided inquiries are made of all applicants, without regard to whether a person is a person with disabilities: [Notice PIH 2004-01, page 24]

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability;
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;
- Inquiring whether an applicant is convicted of the illegal manufacture or distribution of a controlled substance.

Family Members Receiving Social Security Administration (SSA) Disability Benefits

Verification of the receipt of disability benefits from SSA is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions. [Notice PIH 2004-01, page 23]

PHA Policy

For family members claiming disability who receive disability benefits from the SSA, HACLB 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, HACLB will request a current (dated within the last 60 calendar days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), HACLB will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213 or by requesting it from www.ssa.gov. Applicants or participants are required to provide verification letters to HACLB.

Family Members Not Receiving SSA Disability Benefits

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility Chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR §5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals or eligible immigrants. Prorated assistance is provided for "Mixed Families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility Chapter. This verifications Chapter discusses HUD and HACLB verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance is verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR §5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

HACLB may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

PHA Policy

family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless HACLB receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status is granted, age and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Verification [HCV Guidebook, Chapter 5, page 5-3 and 5-7]
family members who claim to be eligible immigrants, HACLB must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

HACLB will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS
HACLB must verify any preferences claimed by applicants to the HCV program.

PHA Policy

1. **Coordinated Entry System/Continuum of Care Preference.** (100 points) Applicants who experienced homelessness, displacement or are at risk of homelessness or displacement. HCV funding for this preference is based on funding availability, as approved by HACLB.

   a. Homeless applicants referred by the City of Long Beach Multi-Service Center, after completing intake, assessment and development of an individual service plan.

      - HACLB verifies this preference through certified referrals made by Continuum of Care agencies.

   b. Domestic Violence applicants, as certified by the Multi-Service Center as applicants with household member(s) who are homeless due to acts of domestic violence, dating violence, sexual assault, or stalking, as certified by the Multi-Service Center.

      - HACLB verifies this preference through certified referrals made by the Long Beach Multi-Service Center.

   c. Family Preservation program applicants referred by the Los Angeles County Department of Children and Family Services (DCFS) -provides support to strengthen and preserve families whose children are at risk of placement in out-of-home care.

      - HACLB verifies this preference through certified referrals made by the DCFS office.

2. **HOPWA Participant Expiration Preference**. (100 points)
   HACLB will offer a preference to current HACLB HOPWA program participants in good standing with the program prior to the termination date of the family's HOPWA program participation, when applicable.

      - This preference is verified by using HACLB's HOPWA program records.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

3. **Displaced Due to Governmental Action Preference.** (100 points)
   HACLB will offer a preference to applicants displaced by government action or displaced due to an event that resulted in the area in which they resided in being declared a federal or state disaster area:

   a. Families who reside in the city of Long Beach who are displaced by government action through no fault of their own.
   b. Families who reside in affordable housing developments built or purchased with the assistance of the City of Long Beach, Redevelopment Agency or Housing Authority bonds, who are displaced when affordability conditions attached to the bonds are lifted prior to the original termination date.
   c. Families residing in a multi-family rental housing project in Long Beach covered by a project-based HCV HAP Contract when HUD sells, forecloses, refinances, or demolishes the project.
   d. Displacement due to governmental action is verified by obtaining verification from the governmental agency that displaced the family.
   e. Displacement due to a declared disaster area is verified by HACLB confirming such a declared disaster and verifying that the applicant resided in the declared disaster area.

4. **Non-Elderly Disabled Preference.** (100 points)
   The Non-Elderly Persons with Disabilities (NED) rental assistance program provides Housing Choice Vouchers for non-elderly disabled applicants.

   - HACLB will verify that the applicant's head of household, spouse or co-head is a person with disabilities and under 62 years of age.

5. **Residency Preference.** (50 points)
   Applicants whose head of household, spouse or co-head lives, works or is hired to work within HACLB's jurisdiction.

   - HACLB will verify that the applicant lives within the jurisdiction through review of a current lease, utility bill, letters from housing providers, vehicle registration, business and household mail or other original documents reflecting that the family resides in a unit within HACLB's jurisdiction.

   - HACLB will verify that the qualifying individual works within HACLB's jurisdiction through review of paystubs, letters from the employer or other documentation that proves the individual works within HACLB's jurisdiction.

   - HACLB will verify that the qualifying individual is hired to work within HACLB's jurisdiction through review of a job-offer letter.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

6. **Veterans Preference.** (15 points)
   The head of household, spouse or co-head is a veteran or a surviving spouse of a veteran of the U.S. Military Armed Forces who was discharged or released under conditions other than dishonorable.

   - HACLB will verify this preference with receipt of an original DD-214.

7. **Elderly or Disabled Preference**. (4 points)
   The head of household, spouse or co-head must be 62 years of age or older; or a person with disabilities, as defined by the U.S. Department of Housing and Urban Development (HUD).

   - Disabled Preference – HACLB will verify that the head of household, spouse or co-head is a person with disabilities, as defined by the U.S. Department of Housing and Urban Development (HUD). (see Exhibit 3-1)
   - Elderly Preference – HACLB will verify that the head of household, spouse or co-head is 62 years of age or older with receipt of an official record of birth. If an official record of birth or evidence of social security retirement benefits cannot be provided, HACLB will require the family to submit other documents that support the reported age of the family member and to provide a self-certification. (reference: 7-II.C)

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this Plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides HACLB policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

PHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

PHA Policy

Business owners and self-employed persons will be required to provide:

- A statement of income and expenses must be submitted, and the business owner or self-employed person must certify to the statement's accuracy.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- All schedules completed for filing federal and local taxes in the preceding year.
- 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.

The business owner/self-employed person will be required to submit the information requested and to certify to the accuracy of the information at all future reexaminations. At any reexamination HACLB 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 less than three (3) months, HACLB 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 three (3) to twelve (12) months, HACLB will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

PHA Policy

To verify the Social Security/SSI benefits of applicants, HACLB will request a current, dated within the last 60 calendar days, Social Security Administration (SSA) benefit verification letter from each family member that receives Social Security benefits.

To verify the Social Security/SSI benefits of participants, HACLB will obtain information about Social Security /SSI benefits through HUD's 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, HACLB will request a current SSA benefit verification letter from each family member that receives social security benefits.

If the applicant or family is unable to provide the document(s), HACLB will help them request a verification letter from SSA's website at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. The benefit verification letter is required, once received.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

7-III.D. ALIMONY OR CHILD SUPPORT

PHA Policy

The way HACLB will seek verification for alimony and child support differs depending on whether the family declares receipt of regular payments. If the family declares receipt of ***regular payments***, verification will be sought in the following order:

- California Department of Child Support Services' UIV verification system, when available;
- Copy of receipts and/or payment stubs for the 60 calendar days prior to HACLB's request;
- Third-party verification form from the state or local child support enforcement agency;
- Third-party verification form from the person paying the support;
- Family's self-certification of amount received and of the likelihood of support payments for the future or that support payments are not being received.

If the family declares ***irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that all reasonable efforts have been taken to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts.
- If the family made independent collection efforts, a written statement from the attorney or other collection entity that assisted in these efforts.

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS [24 CFR §982.516(a)(3)]

Under HUD Notice PIH 2016-05, Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies, PHAs may change their policy to obtain third-party verification of all family assets upon admitting a family to the HCV program and then again at least every 3 years thereafter.

During the intervening annual reexaminations, PHAs may accept a family's declaration for total net assets equal to or less than $5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, the PHA does not need to request supporting documentation, e.g. bank statements, to verify assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from the asset. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy
Following adoption of the assets provision described in Notice PIH 2016-05 and 24 CFR §982.516(a)(3), HACLB will obtain a family's declaration of assets equal to or less than $5,000 at the next interim or annual reexamination. Third-party verifications will be obtained at least every 3 years for HCV participants and during the eligibility process for new admissions.

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation. [HCV Guidebook, Chapter 5, page 5-28]

PHA Policy
HACLB will verify the value of assets disposed of only if:

- HACLB does not already have a reasonable estimation of the assets value from previously collected information or
- The amount reported by the family appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and HACLB verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification is not necessary.

Example 2: A family member disposed of 1/4 share of real property located in a desirable area and has valued their share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, HACLB will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

PHA Policy
The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant

- 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). If Schedule E was not prepared, HACLB will require 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 with monthly interest.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

7-III.G. RETIREMENT ACCOUNTS

PHA Policy

HACLB will accept written third-party documents supplied by the family as evidence of the status of retirement accounts. The type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, HACLB will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account, but in no case earlier than 6 months from the effective date of the examination.
- *Upon* retirement, HACLB will accept an original document from the entity holding the account that reflects any distributions of the account balance, lump sums taken and regular payments.
- *After* retirement, HACLB will accept an original document from the entity holding the account dated no earlier than 12 months before to verify the account balance, distributions, lump sums taken and regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES [Notice PIH 2013-04]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, PHAs are not required to follow the verification hierarchy. Fully excluded income is defined as income that is entirely excluded from the annual income determination, e.g. food stamps, a minor's earned income or foster care funds.

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. PHAs do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA is required to follow HUD's verification hierarchy and to report income on the Form HUD-50058. Partially excluded income is defined as income when only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income, e.g. income of an adult full-time student or income excluded under Earned Income Disallowance.

PHA Policy

HACLB will accept the family's self-certification as verification of fully excluded income. HACLB may request additional documentation, if necessary to document the income source. HACLB will verify the source and amount of partially excluded income, as described in Part I of this chapter.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

7-III.I. ZERO ANNUAL INCOME STATUS

PHA Policy

HACLB will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income. HACLB may run credit checks on zero income families to identify expenses and sources of income claimed on family credit applications.

7-III.J. STUDENT FINANCIAL ASSISTANCE [24 CFR §5.609(c)(6) and (b)(9)]

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance. [FR 4/10/06]

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income.

The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHAB would not be able to determine whether or to what extent the income is to be excluded. (see Section 7-III.H)

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule: http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf

PHA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR §5.609(b)(9), HACLB will request written third-party verification of both the source and the amount of 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, HACLB will request written verification of the student's tuition amount. If HACLB is unable to obtain third-party written verification of the requested information, HACLB will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with PHA Policy. [24 CFR §5.612 and FR 4/10/06, p. 18146]

This provision does not apply to students residing with parents who are seek or receive HCV assistance. It is limited to students who seek or receive assistance on their own, separately from their parents.

> PHA Policy
>
> If HACLB is required to determine the income eligibility of a student's parents, an income declaration from the parent(s) will be requested (see section 3-II.E). HACLB will send a third-party written verification. The required information must be submitted within ten (10) business days.
>
> HACLB 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 (IRS) 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.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/Disabled family deductions require only that HACLB verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction (Chapter 6, section 6-II.B)
HACLB must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head of household, spouse or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full-time student

Elderly/Disabled Family Deduction
See Eligibility Chapter for a definition of elderly and disabled families and Chapter 6, Section II.C for a discussion of the deduction. HACLB must verify that the head of household, spouse or co-head is 62 years of age or older or a person with disabilities.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction is verified following the standard verification procedures described in Part I.

Amount of Expense

PHA Policy

Medical expenses are verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- HACLB will make a best effort to determine which past expenses will likely continue to occur in the future. HACLB will also accept evidence of monthly payments that are paid for medical expenses for the upcoming 12 months.
- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, HACLB must verify that:

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

Eligible Household

The medical expense deduction is only permitted for households in which the head, spouse or co-head is at least 62 or a person with disabilities. PHAs must verify that the family meets the definition of an elderly or disabled family. (see Chapter 7-IV.A)

Qualified Expenses

Costs must qualify as medical expenses. (see Chapter 6, section 6-II.D)

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

Expenses Incurred in Past Years

PHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, HACLB 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction is verified following HACLB's standard verification procedures.

Amount of Expense

Attendant Care

PHA Policy

HACLB will accept written third-party documents provided by the family. If family-provided documents are not available, HACLB will provide a third-party verification form directly to the care provider.

Expenses for attendant care are verified through:

- Written third-party documents, 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

PHA Policy

Expenses for auxiliary apparatus are 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 verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, HACLB must verify that:

- The family member for whom the expense is incurred is a person with disabilities (see 7-II.F above).
- The expense permits a family member or members, to work (see 6-II.E).
- The expense is not reimbursed from another source (see in 6-II.E).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. (see 7-II.F)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Family Member(s) Permitted to Work
HACLB must verify that the expenses claimed actually enable a family member or members, (including the person with disabilities) to work.

PHA Policy
HACLB will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed or that the attendant care or auxiliary apparatus enables another family member or members, to work. (see 6-II.E)

If third-party verification is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member or members to work.

Unreimbursed Expenses
To be eligible for the disability expense deduction, the costs must not be reimbursed by another source.

PHA Policy
The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES
Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction is verified by following standard verification procedures. In addition, HACLB must verify that:

- The child is eligible for care.
- 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.
- 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. HACLB will verify that the child being cared for (including foster children) is under the age of 13. (see 7-II.C)

Unreimbursed Expense
Child care expenses must not be reimbursed by another source.

PHA Policy
The family will be required to certify that child care expenses are not paid by or reimbursed to the family from any other source.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Pursuing an Eligible Activity
PHAs must verify that the family member(s) enabled to seek work, pursue education or be gainfully employed are actually pursuing those activities.

PHA Policy
Information to be Gathered. HACLB will verify information about how the schedule for the claimed activity relates to the hours of care provided, transportation time, study time for students, the relationship of the family member(s) to the child and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work. When possible, HACLB will use documentation from a state or local agency that monitors work-related requirements, e.g. welfare or unemployment. When third-party verification is not available, HACLB will accept self-certification.

Furthering Education. HACLB 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. HACLB will seek third-party verification of the person's work schedule permitted to work due to child care. In cases in which two or more members could be permitted to work, the work schedules for all relevant members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care
The type of care to be provided is determined by the family and must fall within certain guidelines, as discussed in Chapter 6.

PHA Policy
HACLB 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.

HACLB will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the housing unit.

Reasonableness of Expenses
Only reasonable child care costs can be deducted.

PHA Policy
HACLB will follow the verification hierarchy and accept documents provided by the family, third-party standardized forms or self-certification.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 7-1:
SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS
[HCV Guidebook, Chapter 5, pages 5-9 through 5-10]

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to HACLB.
- Except for persons 62 or older, all noncitizens must sign a Verification Consent Form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: ○ "Admitted as a Refugee Pursuant to Section 207" ○ "Section 208" or "Asylum" ○ "Section 243(h)" or "Deportation stayed by Attorney General" ○ "Paroled Pursuant to Section 221 (d)(5) of the USCIS"	• Form I-94 Arrival-Departure Record with no annotation accompanied by: ○ A final court decision granting asylum (but only if no appeal is taken); ○ A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); ○ A court decision granting withholding of deportation; or ○ A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories is made and the applicant's entitlement to the document is verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, it will be announced by notice published in the *Federal Register.*

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR §982, Subpart I and 24 CFR §982.507]

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD) requires that all units occupied by families receiving Housing Choice Voucher (HCV) program assistance meet HUD's Housing Quality Standards (HQS) and permits Public Housing Agencies (PHAs) to establish additional requirements. The use of the term "HQS" in this Plan refers to the combination of both HUD and the Housing Authority of the City of Long Beach (HACLB) established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires HACLB to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

The reference documents for this portion of the Administrative Plan are: the Housing Quality Standards Inspection Manual and the HCV Guidebook, Chapter 10, published by the U.S. Department of Housing and Urban Development (HUD). Eligible housing types are

- legal, conforming housing or
- legal, non-conforming housing (i.e. "grandfathered")

This chapter explains HUD and HACLB requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the housing unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections HACLB will make and the steps that will be taken when units do not meet HQS.
Part III. Rent Reasonableness Determinations. This part discusses the policies HACLB will use to make rent reasonableness determinations.

Special HQS requirements for Homeownership, manufactured homes and other Special Housing types are discussed in Chapter 15, if applicable to HACLB's jurisdiction.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards
HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR §982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-Based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher (HCV) Guidebook, Chapter 10
- HUD's Housing Quality Standards Inspection Manual
- HUD Inspection Form: HUD-52580-A and HUD Inspection Checklist: HUD-52580
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990 (ADA); the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items
HUD requires PHAs to enforce minimum HQS and also requires that certain judgments about acceptability be left to the family. For example, PHAs must ensure that the housing unit contains the required sanitary facilities, however, the family decides whether the cosmetic condition of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility [24 CFR 100.203; Notice 2003-31]
Under the Fair Housing Act of 1988, an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the housing unit. Such modifications are at the family's expense. The owner may require restoration of the housing unit to its original condition, 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 owner may negotiate a restoration agreement that requires the family to restore the housing 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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 HQS 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 Chapter 2 for additional information on Reasonable Accommodations for persons with disabilities)

PHA Policy
An owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to HACLB for review.

Thermal Environment [HCV GB, page 10-7]
PHAs must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

8-I.B. ACCEPTABLE HQS CRITERIA AND ADDITIONS [24 CFR §982.401]

PHAs may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if PHA additions are clarifications of HUD's acceptability criteria or performance standards.

HACLB adheres to the acceptability criteria in HCV program regulations and approved additions. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and HACLB requirements.

Housing Quality Standards (HQS) are used to ensure that assisted housing units:

- Meet the acceptable HQS criteria; and
- All equipment in connection with the housing unit is in working condition.

Clarifications of HUD Requirements

PHA Policy
As permitted by HUD, HACLB has adopted the following specific requirements that elaborate on HUD standards.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Item by Item Specifications

1. Bedrooms:
   a. A bedroom must have a floor area of not less than seventy (70) square feet.

   b. Access to any required exits of a room or suite designated as bedrooms must be possible without passing through a bathroom or toilet room.

   c. Bedrooms must have doors or provide adequate privacy (e.g. loft).

2. Doors:
   a. All exterior doors must be solid core and weather tight to avoid any air or water infiltration, have no holes, have all trim intact, and have a threshold.

   b. All interior doors must have a doorstop, no holes, all trim intact and be capable of being opened easily without the use of a key, special knowledge.

   c. All exit doors must be property installed and operable from the inside without the use of a key or any special knowledge or effort. Double cylinder deadbolt locks are prohibited.

   d. Unit doors (or exterior walls near door) must have properly installed housing unit numerals or letters for identification purposes.

3. Egress:
   a. Egresses and fire exits must be kept in good working condition and be clear of all debris, furniture, bicycles or other obstruction.

   b. For determination of an emergency exit, at least one window must be operable at the sill, sized for fire exit, and unobstructed.

   c. Windows with security bars or security screens must be equipped with a quick release system.

   d. Bedroom doors must not have keyed entry locks.

4. Electrical:
   a. Living rooms and sleeping rooms require at least two working outlets or one working permanently installed light fixture and one working outlet.

   b. No electrical hazards: no missing/cracked cover plates, no exposed wires, no missing panel covers, no gaps in the panel, no faulty breakers, etc.

   c. Electricity not on during the time of the inspection will result in a rating of "Inconclusive" and a re-inspection will be required.

   d. Three-pronged electrical outlets must:
      (1) have a ground connected to the outlet; or
      (2) a Ground Fault Circuit Interrupter (GFCI) to protect the outlet and test and reset buttons must work as intended. [Notice PIH 2011-29]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

5. Floors:
   a. Wood floors must have a smooth surface and be sealed. Any loose or warped boards must be secured and made level.

   b. Bathroom and kitchen floor surfaces shall be constructed and maintained so as to be substantially impervious to water.

   c. All floors must be in a finished state (no plywood).

   d. All floors should have some type of baseboard, trim or sealing for a "finished look." Vinyl baseboard may be used for kitchens and bathrooms.

   e. Floor covering must not present a serious tripping hazard. All floors must be free of lumps, rips, tears, holes and be secured/seamless.

6. Heating:
   a. Heating units must be permanently installed and capable of maintaining a room temperature of 70°F three feet above the floor in all sleeping rooms. Facilities must be installed and maintained in accordance with applicable codes and laws. Unvented fuel-burning heaters are not permitted. Heating devices/appliances must be of a UL-approved type.

   b. Gas heat sources must have fuel shut-off valves.

   c. Heater fire boxes and floor furnaces must be kept clean and debris free.

   d. Unvented, fuel burning heaters are not permitted.

7. Infestation:
   a. Any infestation of rodents or vermin, e.g. roaches, ants, water bugs, fleas, bees or bedbugs, in a unit or common use building must be eliminated.

   b. To effectively assist with pest elimination, owners are encouraged to treat all housing units with shared walls.

8. Interior Stairways, Common Hallways and Porches:
   a. Handrails are required on sections of four or more steps;

   b. Protective railings are required when porches, balconies, stoops or stairs are thirty inches or more above the ground.

   c. Stairwells must be free of hazardous or unsanitary conditions.

9. Plumbing:
   a. All water leaks must be repaired.

   b. All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

   c. All worn or cracked toilet seats and tank lids must be replaced and toilet tank lids must fit properly.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

10. Range (or Stove with Oven):
    a. Pilot lights on gas ranges must be in proper working order.

    b. Range (or Stove with Oven) must be present and in good working condition with all parts functional and readable temperature knobs.

    c. A microwave oven may be substituted for a tenant-supplied range. A microwave oven may only be substituted for an owner-supplied range if the tenant agrees and microwave ovens are furnished instead of ranges to both subsidized and unsubsidized tenants at the property.

11. Site Conditions:
    The property and premises must be reasonably free of serious conditions, which would endanger residents' health or safety. These can include:

    - Hazardous or disruptive activity
    - Nuisance/Harassment of the public
    - Inadequate property management
    - Excessive noise
    - Drug usage and/or sale
    - Criminal activity (may be verified by police reports)

12. Smoke Detectors, Carbon Monoxide Detectors & Fire Extinguishers:
    a. Each dwelling housing unit must contain at least one properly working battery-operated or hardwired smoke detector in each sleeping area, in areas that give access to sleeping areas, and on each level of the unit.

    b. If the housing unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.

    c. Tenants are responsible for replacing batteries for battery powered units. Owners are responsible for instructing tenants on how to replace batteries.

    d. Missing, depleted or broken fire extinguishers must be replaced.

    e. Carbon Monoxide detectors are required for housing units that have fuel burning appliances, fireplace and/or an attached garage. When a carbon monoxide detector is required, it must be installed directly outside of each sleeping area and on every level of the housing unit, including basement. Please Note: this requirement includes all electric housing units with a fireplace and/or an attached garage.

13. Walls and Ceilings: (see sections H and I of this chapter)
    a. All deteriorated paint and damaged substrates must be repaired:
        (1) Fix the cause of the damage;
        (2) Repair the surface; and
        (3) Repaint the surface.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

b. If the area is larger than the de minimis level, preparation must include safe work practices and clearance must be obtained:
   (1) Wet sanding or wet scraping;
   (2) Protection of the worksite to keep lead dust from leaving the worksite or getting onto the resident's belongings; and
   (3) Cleanup of the worksite, including misted sweeping, damp mopping and use of HEPA vacuuming and detergents.

c. In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it should be replaced or restored to a like new condition. Whenever an exterior wall is opened, if it is not insulated, it should be insulated.

d. All walls in a tub or shower area must be covered with ceramic tile or other material that is impervious to water. Caulking should also be used to prevent water damage and eventual deterioration.

14. Water Heaters:
   a. Must have a cold water shut-off valve and be free of leaks.

   b. Must have the correct temperature/pressure relief valve according to the psi needed for the size of the water heater and the discharge line must consist of copper, galvanized or high-heat PVC and of the proper length.

   c. Unless safety dividers or shields are installed water heaters must not be located in bedrooms or living areas where safety hazards may exist.

   d. All gas water heaters must have a gas shut-off valve and must be properly secured as prescribed by code and manufacturer specifications.

15. Windows:
   a. Windows that are accessible from the outside must be lockable.

   b. All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced.

   c. All broken or cracked glass must be replaced and windows glazed as needed.

   d. Windows must be weather stripped as needed to ensure a watertight seal.

   e. All operable windows must have a properly fitting screen in good condition.

   f. Living rooms and sleeping rooms must have at least one operable window for the purpose of ventilation.

   g. Bathrooms must have one openable window or other adequate working ventilation.

   h. Kitchens do not require a window.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

8-I.C. LIFE THREATENING CONDITIONS [24 CFR §982.404(a)]

HUD requires PHAs to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of PHA notification.

PHA Policy

The following are considered life threatening conditions:

- Any condition that jeopardizes the security for the housing unit.
- Major plumbing leaks or flooding, waterlogged floor or ceiling in imminent danger of falling.
- Any electrical problem or condition that could result in shock or fire.
- Natural or LP gas or fuel oil leaks or fumes.
- Lack of permanent functioning heating equipment if inspection occurs during the months of November thru March.
- Utilities not in service.
- No hot running water or contaminated water supply as determined by the Health or Water Department.
- Conditions that present the imminent possibility of injury, e.g. a broken window.
- An obstacle of a permanent nature which prevents entrance or exit.
- Inoperable/Missing smoke detector(s) or carbon monoxide detector(s).
- Structural damage/imminent danger of: collapsed walls, floors or ceilings.
- Lack of functioning toilet in a housing unit that contains one toilet.

If an owner fails to correct life threatening conditions, the Housing Assistance Payment will be abated and the HAP Contract will be terminated. (see 8-II-G)

If a family fails to correct a family caused life threatening condition, as required by HACLB, HACLB may terminate the family's assistance. (see 8-II.H)

The owner is required to repair inoperable smoke detectors and carbon monoxide detectors unless HACLB determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector or carbon monoxide detector within 24 hours.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR §982.404]

Family Responsibilities
The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service;
- Failure to provide or maintain family-supplied appliances; and
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities
The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits, e.g. vermin infestation. However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If the PHA is notified by a public health department or other medical health care provider or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit is identified as having an Environmental Intervention Blood Lead Level (EIBLL), the PHA 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 when the public health department has already completed an evaluation of the housing unit, this information must be provided to the owner.

Within 30 calendar days after receiving the risk assessment report from the PHA or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations. [24 CFR §§35.1325 and 35.1330] If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, data collection and record keeping responsibilities related to children with an EIBLL are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR §5.403]

If the PHA determines that a unit does not meet HQS space standards because of an increase in family size or a change in family composition, the PHA must issue the family a new Voucher and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rent by the family, the PHA must terminate the HAP Contract, in accordance with the contract terms.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

When the PHA terminates the HAP contract for a violation of HQS space standards:

(1) The PHA must notify the family and the owner of the termination; and

(2) The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner.

(3) The family may move to a new unit in accordance with the PHA's "Restrictions on Moves". [24 CFR §982.354]

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR §982.405]

Types of Inspections
The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* PHAs conduct initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass an HQS inspection before the effective date of the HAP Contract.

- *Biennial Inspections.* HUD permits PHAs to conduct unit inspections every other year instead of annually. Permitting biennial inspections for HCV units reduces administrative burdens on PHAs and high-performing landlords. Biennial inspections also enable PHAs to concentrate their inspection resources on the more marginal and higher-risk units.

- *Special Inspections.* A special inspection may be requested by the owner, the family or a third party as a result of problems identified with a unit between biennial inspections.

- *Quality Control Inspections.* HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

Inspection of PHA-owned Units [24 CFR §982.352(b)]
PHAs must obtain the services of an independent entity to perform all HQS inspections in cases when an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by a PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD and may be the housing unit of general local government for the PHA's jurisdiction (unless the PHA is itself the housing unit of general local government or an agency of such government).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Inspection Costs [24 CFR §982.405(e)]
PHAs may not charge the family or owner for unit inspections. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection. [24 CFR.982.352(b)]

Notice and Scheduling
The family must allow the PHA to inspect the housing unit at reasonable times with reasonable notice. [24 CFR §982.551(d)]

PHA Policy
Both the family and the owner will be given reasonable notice of all inspections and instructions for allowing entry for inspections. Inspections may be scheduled between 8:30 a.m. and 7:00 p.m. PST. Generally, inspections will be conducted on business days only.

For the following inspection types, reasonable notice is considered:
- **Biennial inspections** (Section 8-II.C) – not less than two weeks' notice;
- **Special inspections** (Section 8-II.D) – not less than 72 hours; and
- **Life-threatening conditions** (Section 8-I.C) - HACLB will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance
HUD permits PHAs to set policy regarding family and owner presence at the time of the inspection. [HCV GB, page 10-27]

PHA Policy
When a family occupies the housing unit at the time of inspection an adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged, but is not required. At initial inspection of a vacant unit, HACLB will conduct the inspection if either an adult family member or an owner's representative is present.

8-II.B. INITIAL HQS INSPECTION [24 CFR §982.401(a)]

Timing of Initial Inspections
HUD requires the housing unit to pass HQS before the effective date of the lease and HAP Contract. For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 calendar days. The 15-day period is suspended for any period during which the housing unit is not available for inspection. [24 CFR §982.305(b)(2)]

PHA Policy
HACLB will complete the initial inspection, determine whether the housing unit satisfies HQS and notify the owner and the family of the determination within 15 calendar days of submission of a complete Request For Tenancy Approval.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Inspection Results and Re-inspections

PHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given ten (10) business days to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by HACLB for good cause. HACLB will re-inspect the housing unit within ten (10) business days of the date the owner notifies HACLB that the required corrections have been made.

If the time period for correcting the deficiencies, or any PHA-approved extension has elapsed, or the housing unit fails HQS at the time of the re-inspection, HACLB will notify the owner and the family that the housing unit is not approved and that the family must search for another unit. HACLB may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a failed re-inspection, the family may submit a new Request For Tenancy Approval for the housing unit if the family has not found another unit by the time the owner completes all repairs and the family continues to wish to live in the housing unit.

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.

Appliances

PHA Policy

If the family is responsible for supplying the stove and/or refrigerator, HACLB will allow the stove and refrigerator to be placed in the housing unit after the housing unit has met all other HQS requirements. The required appliances must be in place before the HAP Contract is executed by HACLB. HACLB may execute the HAP Contract, upon receipt of written certification from the family and the owner that the appliances have been installed and are working. A confirmatory inspection may be scheduled within 30 calendar days of HAP Contract approval.

8-II.C. BIENNIAL HQS INSPECTIONS [24 CFR §982.405(a)]

Scheduling the Inspection

Each housing unit under HAP Contract must have an HQS inspection no more than 24 months after the most recent inspection.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

If the family misses the scheduled appointment without requesting a new inspection date, HACLB will automatically schedule a second inspection. If the family misses two scheduled inspections without HACLB approval, HACLB will consider the family to have violated their obligation to make the housing unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB, Chapter 10, page 10-30]

The PHA will conduct a special inspection if the owner, family or another source reports HQS violations in the housing unit.

PHA Policy

During a special inspection, HACLB will generally inspect only the deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the biennial inspection is scheduled or due within 90 days of the date of a special inspection, HACLB may elect to conduct a full biennial HQS inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR §982.405(b) and HCV GB, page 10-32]

HUD requires a PHA 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 Housing Quality Standards.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include: (1) each type of inspection (initial, biennial and special), (2) inspections completed by each inspector and (3) units from a cross-section of neighborhoods.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of inspection results. When an inspection identifies HQS deficiencies, the PHA will determine: (1) if the failure is a life-threatening condition; and (2) whether the family or owner is responsible.

PHA Policy

When life threatening conditions are identified (see Section 8-I.C), HACLB will immediately notify both parties by telephone, email or mail. The notice will specify who is responsible for correcting the violation. For life-threatening conditions, corrective action must be taken within 24 hours of the inspection.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

When deficiencies that are not life threatening are identified, HACLB 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 deficiencies and the time frame for corrections(s).

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 30 days of the inspection, the housing assistance payment will be abated, according to section 8-II.G of this Plan.

Likewise, 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 PHA-approved extension) the family's assistance will be terminated, in accordance with HACLB policy. (see Chapter 12)

Extensions

For conditions that are life-threatening, PHAs cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, PHAs may grant an exception to the required time frames for correcting deficiencies, if the PHA determines that an extension is appropriate. [24 CFR §982.404]

PHA Policy

Extensions will be granted in cases when HACLB determines that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond their control. Reasons may include, but are not limited to:

- A repair cannot be completed due to unavailability of required parts or services.
- 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 and will not exceed 60 calendar days, except for 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. Necessary repairs must be made within 15 calendar days, once weather conditions have subsided.

Re-inspections

PHA Policy

HACLB will conduct a re-inspection immediately following the end of the correction period or any HACLB approved extension. The family and owner will be given reasonable notice of the re-inspection appointment, with instructions for allowing entry for the re-inspection.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If the deficiencies have not been corrected by the time of the re-inspection, HACLB 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 HACLB policies. If HACLB is unable to gain entry to the unit in order to conduct the scheduled re-inspection, HACLB will consider the family to have violated their obligation to make the unit available for inspection. This may result in termination of the family's assistance, in accordance with Chapter 12.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement [24 CFR 985.3(f)]

If an owner fails to correct HQS deficiencies by the time specified, HUD requires the PHA to abate Housing Assistance Payments (HAP) 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 abatement period. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

PHA Policy

HACLB will inspect abated units within five (5) business days of the owner's notification that deficiencies are corrected. HAP payments will resume and be effective the day the housing unit passes inspection.

During any abatement period the family continues to be responsible for their share of the rent. The owner must not seek payment from the family for abated HAP and may not use the abatement as cause for eviction.

PHA Policy

HALCB will not seek termination of assistance for non-payment of HAP.

HAP Contract Termination

PHAs must decide how long an abatement period will continue before the HAP Contract is terminated. PHAs should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time and must give the owner reasonable notice of the termination. [HCV GB, page 10-27]

The PHA will issue a Voucher for the family to move to another unit. (see Chapter 10)

PHA Policy

The maximum length of time that a HAP may be abated is ninety (90) calendar days. However, if the owner completes corrections and notifies HACLB before the termination date of the HAP Contract, HACLB may rescind the termination notice, if: (1) the family still resides in the housing unit and wishes to remain in the housing unit; and (2) the housing unit passes inspection. Reasonable notice of HAP Contract termination by HACLB is thirty (30) calendar days.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR §982.404(b)]
Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed (and any extensions), the PHA will terminate the family's assistance, according to the policies in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS [24 CFR §982.507]

8-III.A. OVERVIEW

No HAP Contract can be approved until the PHA has determined that the rent for the housing unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

PHA-Owned Units [24 CFR §982.352(b)]
In cases when an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHAC that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must provide the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD and may be the housing unit of general local government for the PHA jurisdiction (unless the PHA is itself the housing unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS - REQUIRED

Owner-Initiated Rent Determinations
PHAs must make a rent reasonableness determination at initial occupancy and when the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA will assist the family with negotiations upon request. At initial occupancy, the PHA must determine whether the proposed rent is reasonable before a HAP contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the lease. For rent increase requests after initial lease-up, HACLB may request owners to provide information about the rents charged for other units on the premises, for properties with more than 4 units. In evaluating the proposed rents in comparison to other units on the premises, HACLB will consider unit size and length of tenancy in the other units.

HACLB will determine whether the requested increase is reasonable within fifteen (15) business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All approved rent adjustments will be effective the first of the month following 60 calendar days of HACLB's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA and HUD-Initiated Rent Reasonableness [Docket No. FR-5855-F-03]

HUD requires PHAs to make a determination of rent reasonableness if there is a ten percent decrease in the published Fair Market Rent in effect 60 calendar days before the contract anniversary date, as compared with the FMR in effect one year before the contract anniversary date (even if the owner has not requested a change). HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

PHA Policy

In addition to the instances described above, HACLB will make a determination of rent reasonableness at any time after the initial occupancy period if:

(1) HACLB determines that the initial rent reasonableness determination was in error; or
(2) HACLB determines that the information provided by the owner about the housing unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. PHAs may use these factors to make adjustments to the rent of comparable units when the housing unit differs from the assisted unit.

- Location and age;
- Unit size, including the number of rooms and square footage of the rooms;
- The type of unit including construction type, e.g. single family, duplex, garden, low-rise, high-rise;
- The quality of the housing unit, e.g. construction, maintenance and improvements;
- Amenities, services and utilities included in the rent.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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; subsidized through federal, state or local tax credits; subsidized by the Department of Agriculture rural housing programs and units with rent-control by local ordinance. [Notice PIH 2011-46]

Rents Charged for Other Units on the Premises

The Request For Tenancy Approval (Form HUD-52517) 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 the HAP payment each month, the owner certifies that the rent charged is not more than the rent for comparable unassisted units. If requested by the PHA, the owner must provide information regarding rents charged for unassisted units.

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

PHA Policy

HACLB will primarily utilize www.gosection8.com which will collect and maintain data on market rents in HACLB'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.

Data will be updated on an ongoing basis and rent information that is more than 12 months old will be archived in www.gosection8.com. Market Rent Data greater than 12 months old will not be used with the determination, but may be used for reference.

How Rents are Determined

PHA Policy

The rent for a proposed unit will be compared to the rent charged for comparable unassisted units in the market area. HACLB 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 housing units within this rent range. Because units may be similar, but not exactly like the proposed housing unit, HACLB may make adjustments to account for the differences. 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HACLB uses a unit-to-unit comparison, by which the rent for a proposed unit is directly compared to the rents for one or more unassisted units selected as comparable units within the same market area. Geocoded maps will be used to identify the non-assisted units in closest proximity to the subject unit and unit data information will be used to select the most similar units.

In comparing rents, HACLB will take into account critical market factors that impact rent, including the location, quality, size, unit type and age of the contract unit, as well as any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Where comparable units differ from the proposed housing unit, the PHA will determine whether the differences impact the rent. If the PHA determines that the differences impact the rent, the rental value will be adjusted, up or down, based on the market value of the factors. The rent for the proposed housing unit will be compared to the adjusted rents for the comparable units, enabling a fair, accurate, market-based determination of rent reasonableness.

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 rents units are presumed to have functioning roofs.

When a comparable project offers rent concessions, e.g. first month rent-free or reduced rent, reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month, but new tenants receive the first month's rent free, the actual rent for the housing unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

HACLB will notify the owner of the approved contract rent, based upon the analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. HACLB 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 five (5) business days of HACLB's request for information or the owner's request to submit information.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART IV: LEAD-BASED PAINT, VISUAL ASSESSMENT & LEAD SAFE RULE

8-IV.A. Visual Assessment for Deteriorated Paint. (HCV Guidebook, Chapter 10)

HCV program units are subject to the following subparts of 24 CFR Part 35:

- Subpart A: Disclosure;
- Subpart B: General Lead-Based Paint Requirements and Definitions;
- Subpart M: Tenant-Based Rental Assistance; and
- Subpart R: Methods and Standards for Performing Lead Hazard Evaluation and Reduction Activities

HACLB inspectors complete HUD's Visual Assessment Training, and conduct visual assessments, in accordance HUD's established procedures.

HACLB conducts a visual inspection for deteriorated paint surfaces for housing units build prior to 1978 that are occupied (or will be occupied) by families with a child/ children under six (6) years of age. Deteriorated paint surfaces are defined as paint or other coating that is peeling, chipping, flaking, cracking or has separated from the surface or fixture.

Stabilization of Deteriorated Paint Surfaces.
HACLB will notify and require the owner to perform stabilization of any surfaces that do not pass the required visual assessment. The deficiency must be corrected:

- within thirty (30) calendar days of notification (occupied units); or
- before commencement of an assisted tenancy.

When weather conditions prevent stabilization of deteriorated paint surfaces on exterior surfaces, the stabilization may be delayed for a reasonable time, if approved by the Inspections Supervisor.

Owners must perform paint stabilization on all deteriorated paint surfaces regardless of the size of the deteriorated surface. Paint stabilization is defined as:

- Repair of any physical defect in the substrate of the painted surface or building component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, missing siding, or other components not securely fastened;
- Removal of all loose paint and other loose material from the surface being treated; and
- Application of a new protective coat of paint to the stabilized surface.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Deteriorated paint below de minimis level requires Owners to perform paint stabilization.

Deteriorated paint above de minimis levels requires Owners to perform additional activities to gain compliance with HUD Lead-Based Paint requirements, including:

- Conduct stabilization activities with trained staff;
- Employ acceptable methods for preparing the surface to be treated, including wet scraping, wet sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment;
- Dry sanding and dry scraping is not permitted except within one (1) square foot of electrical outlets, due to possible electrical hazards.
- Protect the occupants and their belongings from contamination;
- Notify the occupants within fifteen (15) calendar days of the stabilization activity and provide the results of the clearance examination; and
- HUD has provided funds to PHAs to cover the cost of the first clearance examination. The owner covers funds for the cost of subsequent tests.
- HACLB is responsible for clearance activities. Clearance examinations must be performed by persons who have EPA or state-approved training and are licensed or certified to perform clearance examinations.

In no instance may an owner employ any paint stabilization methods that are strictly prohibited by federal, state, or local law such as:

- Open flame burning and torching;
- Machine-sanding or grinding without a HEPA local exhaust control;
- Heat guns operating above 1,100 degrees Fahrenheit;
- Abrasive blasting or sandblasting without HEPA exhaust control;
- Dry sanding/scraping except limited conditions and areas stated above; and
- Paint stripping in poorly ventilated space using a volatile stripper or a hazardous chemical as defined by Occupational Safety and Health Administration (OSHA).

Failure to comply with paint stabilization requirements, regardless of the amount of deteriorated surface, results in disapproval of the tenancy, HAP abatement, and/or HAP Contract termination. This HQS violation is considered closed when HACLB receives an executed copy of the Lead Based Paint Owner's Certification.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

8-IV.B. Lead Safe Housing Rule (LSHR)

HUD's Lead Safe Housing Rule applies to all assisted housing units. In order to address lead hazards, HACLB refers to regulations and guidance, to include:

- 24 CFR Part 35 – Lead-Based Paint (LBP) Poisoning Prevention
- Notice PIH 2017-13: Guidance on HUD's Lead Safe Housing Rule
- FR-5816-P-01: Requirements for Notice, Evaluation & Reduction of LBP
- Lead-Based Paint Hazard Reduction Act of 1992
- HUD's Lead Compliance Toolkit for the HCV program

Information Sharing with Health Department. (24 CFR Part 982, Subpart M)
Data collection and record keeping responsibilities will be addressed, as follows:

- At least quarterly, HACLB will attempt to obtain the names and/or addresses of children less than six (6) years old with an identified Elevated Blood Lead Level (EBLL) from the local public health department.
- At least quarterly, HACLB will submit an updated list of assisted units to the health department, unless the health department requests not to receive such report.
- HACLB will perform a "match" against any information received on EBLL children from the public health department and HCV families, unless the public health department performs such a matching procedure.

Child with an EBLL. (24 CFR §35.1225). When a child under 6 is identified with an EBLL, HACLB or the owner, as described below, must take certain steps. The following table summarizes the responsibilities of HACLB and HCV rental property owners for compliance when a child in the HCV program is identified with an EBLL:

Activity	Responsible Entity	
	HACLB	HCV Owner
Initial notification of confirmed case to HUD	*	✓
Verification, when necessary	✓	*
Initial notification of confirmed case to health department	*	✓
Environmental Investigation	✓	
Lead Hazard Control		✓
Clearance after work completed	*	✓
Notification to other residents		✓
Ongoing LBP Maintenance		✓
Monitor Owner's compliance with LSHR & HQS	✓	

* HACLB may collaborate with the owner on implementing this process.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

This document provides an overview of HQS. For more detailed information see:

- 24 CFR §982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher (HCV) Guidebook, Chapter 10
- HUD's Housing Quality Standards Inspection Manual
- HUD Inspection Form: HUD-52580-A and HUD Inspection Checklist: HUD-52580

Sanitary Facilities
The dwelling unit must include sanitary facilities within the housing unit. ☐The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal
The dwelling unit must have space and equipment suitable for the family to store, prepare and serve food in a sanitary manner.

Space and Security
The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment
The unit must have a safe system for heating the dwelling unit. Air conditioning is not required, however, if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary heat source for climatic areas that require permanent heat systems.

Illumination and Electricity
Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources for occupants to use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials
The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present and protective railings are required when porches, balconies and stoops are thirty inches or more off the ground. The elevator servicing the housing unit must be working (if there is one). Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Interior Air Quality
The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply
The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint
Lead-Based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants prior to execution of the lease;
- Provide prospective families with "Protect Your family from Lead in Your Home";
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA;
- Notify tenants each time such an activity is performed;
- Conduct all work in accordance with HUD safe practices;
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by children under six years of age with Environmental Intervention Blood Lead Level, a risk assessment must be conducted (paid for by the PHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

For additional information on Lead-Based Paint requirements, see:

- HCV Guidebook, Chapter 10: Housing Quality Standards, page 10-15;
- 24 CFR 35, Subpart A: Disclosure;
- 24 CFR 35, Subpart B: General Lead-Based Paint Requirements and Definitions;
- 24 CFR 35, Subpart M: Tenant-Based Rental Assistance; and
- 24 CFR 35, Subpart R: Methods and Standards for Performing Lead Hazard Evaluation and Reduction Activities.

Access
Use and maintenance of the housing unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Site and Neighborhood
The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin or other dangers to the health, safety and general welfare of the occupants.

Sanitary Condition
The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors
Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Heath/Safety
The unit, interior and exterior common areas accessible to the family, the site and the surrounding neighborhood must be free of hazards to the family's health and safety.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HQS

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- 24 CFR §982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher (HCV) Guidebook, Chapter 10
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form HUD-52580 and/or HUD-52580-A

Provided minimum Housing Quality Standards have been met, HUD permits families to determine whether the housing unit is acceptable with regard to the following:

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub or shower; the location of the sanitary facilities within the housing unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family determines the adequacy of storage space, food preparation space and the cosmetic conditions of the kitchen. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a range or stove with oven. When the owner is responsible for providing cooking appliances, the owner may provide a microwave oven in place of a range or stove with oven if other housing units on the premises are furnished with microwave ovens only.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations.
- *Energy Conservation Items*. The family may determine whether the amount of insulation, presence or absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (above those required by HQS) are acceptable.
- *Structure and Materials*. Families may determine whether minor defects, such as lack of paint or worn floor or carpeting will affect the livability of the housing unit.
- *Indoor Air*. Families may determine whether window and door screens, fans or other devices for proper ventilation are adequate to meet the family's needs.
- *Sanitary Conditions*. The family determines whether the sanitary conditions in the housing unit, including minor infestations, are acceptable.
- *Neighborhood Conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises and convenience to shopping will affect the livability of the housing unit.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request For Tenancy Approval to execution of the Housing Assistance Payments (HAP) contract. In order for the Housing Authority of the City of Long Beach (HACLB) to assist a family in a particular dwelling unit or execute a Housing Assistance Payment (HAP) Contract with an owner, HACLB must determine that all the following program requirements are met: [24 CFR §982.305(a)]

- The unit itself must qualify as an eligible unit;
- The unit must be inspected by HACLB and meet Housing Quality Standards (HQS);
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum;
- The rent to be charged by the owner for the housing unit must be reasonable;
- The owner must be an eligible owner, approvable by HACLB, with no conflicts of interest [24 CFR §982.306]
- For families initially leasing a unit only: When the gross rent of the housing unit exceeds the applicable Payment Standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income. This is also known as the maximum initial rent burden. [24 CFR §982.305(a), 24 CFR §5.508, and HCV GB, page 6-2]

9-I.A. TENANT SCREENING

Public Housing Agencies (PHAs) have no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. [24 CFR §982.307(a)(1)]

PHAs may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of HACLB's policies with regard to screening applicant families for program eligibility. [24 CFR §982.30(a)(1)]

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. [24 CFR §982.307(a)(2)]

The PHA must also inform the owner or manager or his/her rights and obligations under the Violence Against Women Reauthorization Act of 2013 (VAWA). [24 CFR, Subpart L §5.2005(a)(2)]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The PHA must provide the owner with the family's current and prior address (as shown in the PHA's records) and the name and address (if known to the PHA) of the owner at the family's current and prior address. [24 CFR §982.307(b)(1)]

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the family's tenancy. [24 CFR §982.307(b)(2)]

The PHA's policy on providing information to the owner must be included in the family's briefing packet. [24 CFR §982.307(b)(3)]

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence or stalking except at the written request or with the written consent of the individual providing the documentation. [24 CFR Part 5, Subpart L, §5.2007(b)(4)]

PHA Policy
HACLB will not screen applicants for family behavior or suitability for tenancy. HACLB will not provide additional screening information to the owner.

9-I.B. REQUEST FOR TENANCY APPROVAL [Form HUD-52517]

After the family is issued a Voucher, the family must locate an eligible unit, with an owner willing to participate in the Housing Choice Voucher (HCV) program. Once a family finds a suitable unit and the owner is willing to lease the housing unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to HACLB:

- A complete Request For Tenancy Approval (RFTA) – Form HUD-52517; and
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent and the requested beginning date of the lease, necessary for PHAs to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the housing unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA grants a request for Reasonable Accommodation for a person with disabilities who is a member of the family.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

For units constructed prior to 1978, owners must either: 1) certify that the housing unit, common areas and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the Voucher. [HCV GB, Chapter 8, page 8-15]

PHA Policy

The RFTA must be signed by both the family and the owner. The owner may submit the RFTA on the family's behalf. Completed RFTA, including the proposed lease, must be submitted as a hard copy in-person or by mail.

The family may not submit and HACLB will not process, more than one (1) RFTA at a time. When the family submits the RFTA, HACLB staff will review the RFTA for completeness.

If the RFTA is incomplete (including lack of signature by family, owner or both) or if the lease is not submitted with the RFTA, HACLB will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as a hard copy in-person or by mail. HACLB will not accept missing information over the phone.

When the family submits the RFTA and proposed lease, HACLB will also review the terms of the RFTA for consistency with the terms of the proposed lease.

If the terms of the RFTA are not consistent with the terms of the proposed lease, HACLB will notify the family and the owner of the discrepancies.

Corrections to the terms of the RFTA and/or the proposed lease will only be accepted as a hard copy in-person or by mail. HACLB will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, HACLB will attempt to communicate with the owner and family by phone, fax or email. HACLB will use mail when the parties can't be reached by phone, fax or email.

9-I.C. OWNER PARTICIPATION

PHAs do not formally approve an owner to participate in the HCV program. However, there are a number of instances when PHAs may deny approval of an assisted tenancy based on past owner behavior, conflict of interest or other owner-related issues. No owner has a right to participate in the HCV program. [24 CFR §982.306(e)]

See Chapter 13, for a full discussion of owner qualification to participate in the HCV program.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

9-I.D. ELIGIBLE UNITS

There is a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the HCV program. Generally, a Voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. Eligible units also include the dwelling unit currently occupied by the Voucher holder.

Ineligible Units [24 CFR §982.352(a)]

PHAs may not assist a unit under the HCV program if the housing unit is a public housing or Indian housing unit; a unit receiving project-based assistance under Section 8 of the United States Housing Act of 1937 (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 the owner or by a person with any interest in the housing unit.

PHA-Owned Units [24 CFR §982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the Voucher may be leased in the HCV program. In order for a PHA-owned unit to be leased under the HCV program, the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease.

PHA Policy

HACLB does not have any eligible PHA-owned units under the HCV program.

Special Housing Types [24 CFR §982 Subpart M]

With a few exceptions, HUD regulations permit, but do not require PHAs to permit families to use HCV assistance in Special Housing types. Special Housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, manufactured home space (when the family owns the manufactured home and leases the space), cooperative housing and Homeownership. See Chapter 15 for specific information and policies on Special Housing types permitted by the PHA.

The regulations do require PHAs to permit use of any Special Housing type if needed as a Reasonable Accommodation so that the program is readily accessible to and usable by persons with disabilities.

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);

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR §982.305 and 24 CFR §982.401]
In order to be eligible, the dwelling unit must be decent, safe and sanitary. This determination is made using HUD's Housing Quality Standards (HQS) and state or local standards approved by HUD. See Chapter 8, for a full discussion of Housing Quality Standards, as well as the process for HQS inspections at initial lease-up.

Unit Size [24 CFR §982.402(d)]
In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on their Voucher, provided the housing unit meets the applicable HQS space requirements. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on their Voucher. (see Chapter 5, for a full discussion of Subsidy Standards)

Rent Reasonableness [24 CFR §982.305 and 24 CFR §982.507]
In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8, for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR §982.305(a), 24 CFR §5.508, and HCV GB, page 6-2]
When a family is initially leasing a unit and the gross rent of the housing 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 does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6, for a discussion of calculation of gross rent, the use of Payment Standards and calculation of family income, family share of rent and HAP.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

9-I.E. LEASE AND TENANCY ADDENDUM

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. The PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner. [24 CFR §982.308(a)]

Lease Form and Tenancy Addendum [24 CFR §982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP Contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the PHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

Lease Information [24 CFR §982.308(d)]

The assisted lease must contain all of the required information as listed below:

- The names of the owner and the tenant;
- The unit rented (address, apartment number and any other information needed to identify the contract unit);
- The term of the lease (initial term and any provisions for renewal);
- The amount of the monthly rent to owner; and
- 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.

Term of Assisted Tenancy [24 CFR §982.309]

The initial term of the assisted lease must be for at least one year. The initial lease term is also stated in the HAP Contract.

HUD program regulations permit PHAs to approve a shorter initial lease term if certain conditions are met.

> PHA Policy
>
> Generally, HACLB will not approve an initial lease term of less than one (1) year.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

During the initial term of the lease, the owner may not increase the contract rent. Any provisions for renewal of the lease will be stated in the lease. [HCV GB, Chapter 8, page 8-22]

There are no HUD requirements regarding any renewal extension terms, except that the terms, if any, must be in the lease.

PHAs may execute the HAP Contract, even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR §982.309(b)]

Security Deposit [24 CFR §982.313 (a) and (b)]
The owner may collect a security deposit from the tenant. PHAs may prohibit security deposits in excess of private market practice or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP Contract. [Form HUD-52641]

> PHA Policy
> HACLB will allow the owner to collect any security deposit amount that is consistent with state law and the owner determines is appropriate.

Separate Non-Lease Agreements between owner and Tenant
Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the Housing Assistance Payment. [24 CFR §982.451(b)(4)]

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises. [24 CFR §982.510(c)]

> PHA Policy
> HACLB 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 tenants as part of the lease or are permanently installed in the dwelling unit must be included in the family's lease. Items, appliances or services cannot be placed under a separate non-lease agreement. Side payments for additional rent or for items, appliances or services customarily provided to unassisted tenants as part of the lease, are prohibited.
>
> Any items, appliances or other services that are not customarily provided to unassisted tenants as part of the lease with those families, are not permanently installed in the dwelling unit and when 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The family is not liable and cannot be held responsible under the terms of the 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 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.

PHA Review of Lease

The PHA will review the owner's lease for compliance with all applicable requirements.

PHA Policy

If the dwelling lease is incomplete or incorrect, HACLB will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as a hard copy in-person, by mail, or by fax. HACLB will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, HACLB will attempt to communicate with the owner and family by phone, fax, or email. HACLB will use mail when the parties can't be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with state and local law and is permitted to decline to approve the tenancy if HACLB determines that the lease does not comply with State or local law. [24 CFR §982.308(c)]

PHA Policy

HACLB will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR §982.305]

After receiving the family's Request For Tenancy Approval and proposed lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved. Prior to approving the assisted tenancy and execution of a HAP Contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that:

- the housing unit is eligible;
- the housing unit is inspected by the PHA and meets Housing Quality Standards;
- the lease offered by the owner is approvable and includes the required Tenancy Addendum;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- the rent to be charged by the owner for the housing unit must is reasonable;
- where the family is initially leasing a unit and the gross rent of the housing unit exceeds the applicable Payment Standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income; [24 CFR §982.305(a), 24 CFR §5.508, and HCV GB, page 6-2]
- the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest; [24 CFR §982.306]
- the family and the owner have executed the lease, including the Tenancy Addendum and the lead-based paint disclosure information. [24 CFR §982.305(b)]

PHA Policy

HACLB will complete the RFTA determination within fifteen (15) business days of receiving all required information.

If the terms of the RFTA/proposed lease are changed for any reason, including, but not limited to negotiation with HACLB, HACLB will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

Corrections to the RFTA/proposed lease will be accepted as a hard copy in-person, by mail or by fax. HACLB may accept corrections over the phone. If HACLB accepts corrections over the telephone, HACLB will clearly document conversations and ensure both parties are in agreement and fully notified.

If HACLB determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. HACLB will instruct the owner and family of the steps that are necessary to approve the tenancy.

PHA Policy

When the tenancy is not approvable because the housing 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 (including rent burden and rent reasonableness), HACLB 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

9-I.G. HAP CONTRACT EXECUTION [24 CFR §982.305]

The HAP Contract is a written agreement between the PHA and the owner of the dwelling unit occupied by an assisted family. Under the HAP Contract, the PHA 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.

The HAP Contract format is prescribed by HUD. [Form HUD-52641]

If the PHA grants approval for the family of the assisted tenancy, the owner and the PHA execute the HAP Contract.

The term of the HAP Contract must be the same as the term of the lease. [24 CFR §982.451(a)(2)]

The PHA is permitted to execute a HAP Contract even if the funding currently available does not extend for the full term of the HAP Contract.

The PHA must make a best effort to ensure that the HAP Contract is executed before the beginning of the lease term. Regardless, the HAP Contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any Housing Assistance Payment to the owner until the HAP Contract has been executed. If the HAP Contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay Housing Assistance Payments after execution of the HAP Contract (in accordance with the terms of the HAP Contract), to cover the portion of the lease term before execution of the HAP Contract (a maximum of 60 calendar days).

Any HAP Contract executed after the 60-day period is void and the PHA may not pay any Housing Assistance Payment to the owner.

> PHA Policy
>
> Owners who have not previously participated in the HCV program may attend an owner's orientation, in which the terms of the Tenancy Addendum and the HAP Contract will be explained. The owner and the assisted family will execute the lease and the owner must provide a copy to HACLB. HACLB will ensure that both the owner and the assisted family receive copies of the lease.
>
> The owner and HACLB will execute the HAP Contract. HACLB will not execute the HAP Contract until the owner has submitted IRS form W-9. HACLB will ensure that the owner receives a copy of the executed HAP Contract.

See Chapter 13, for a discussion of the HAP Contract and contract provisions.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR §982.308]

If the tenant and the owner agree to changes in the lease, such changes must be in writing and the owner must immediately give the PHA a copy of the changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP Contract are not required for changes in the lease. However, under certain circumstances, Voucher assistance in the housing unit shall not be continued, unless the PHA approves 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 altered terms. A new tenancy must then be approved in accordance with this chapter.

An owner may request a rent increase any time an increase is allowed under the terms of the lease. The owner must give the PHA at least 60 days' notice of any changes in the amount of rent to the owner. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable, according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease. [24 CFR §982.309(a)(3)]

PHA Policy

When an owner requests a rent increase, HACLB will determine whether the requested increase is reasonable as soon as possible. It is HACLB's goal to respond within fifteen (15) business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Missing information, such as the rents currently charged for unassisted units on the premise will delay the review process. HACLB will inform the owner if information needed to review the rent increase request is missing within fifteen (15) business days of receipt of the request.

Rent increases will go into effect on the first of the month following the 60-day period after the owner notifies HACLB of the rent change, or on the date specified by the owner, whichever is later.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the Housing Choice Voucher (HCV) program. In general, therefore, U.S. Department of Housing and Urban Development (HUD) regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and the policies of the Housing Authority of the City of Long Beach (HACLB) governing moves within or outside HACLB's jurisdiction in two parts:

> Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under HACLB's HCV program, whether the family moves to another unit within HACLB's jurisdiction or to a unit outside HACLB's jurisdiction under portability.
>
> Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into HACLB's jurisdiction. This part also covers the special responsibilities that HACLB has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease. [24 CFR §982.314(b)(3)]

- If the family terminates the lease on notice to the owner, the family must give the Public Housing Agency (PHA) a copy of the notice at the same time. [24 CFR §982.314(d)(1)]

- The lease for the family's unit was terminated by mutual agreement of the owner and the family. [24 CFR §982.314(b)(1)(ii)]

  PHA Policy
  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give HACLB a copy of the termination agreement.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- The owner has given the family a notice to vacate, has commenced an action to evict the family or has obtained a court judgment or other process allowing the owner to evict the family. [24 CFR §982.314(b)(2)]

- The family must give the PHA a copy of any owner eviction notice. [24 CFR §982.551(g)]

- The family or a member of the family is or has been the victim of domestic violence, dating violence or stalking and the move is needed to protect the health or safety of the family or family member. This condition applies even when the family has moved out of their unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the housing unit. [24 CFR §982.314(b)(4) and 24 CFR §982.353(b)]

  PHA Policy
  If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence or stalking, HACLB will request documentation, in accordance with section 16-IX.D.

  HACLB reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family will suffice. In such cases HACLB will document the waiver in the family's file.

- The PHA has terminated the assisted lease for the family's unit for the owner's breach. [24 CFR §982.314(b)(1)(i)]

- The PHA determines that the family's current unit does not meet HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new Voucher and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP Contract for the family's old unit in accordance with the HAP Contract terms and must notify both the family and the owner of the termination. The HAP Contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR §5.403 (a) and (c)]

10-I.B. RESTRICTIONS ON MOVES [24 CFR §982.1(b)(2)]
A family's right to move is generally contingent upon the family's compliance with program requirements. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Denial of Moves
HUD regulations permit PHAs to deny a family permission to move under the following conditions:

Insufficient Funding [24 CFR §982.354(e)(1)]
The PHA may deny a family permission to move either within or outside of the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance. However, Notice PIH 2016-09 significantly restricts the ability of the PHA to deny permission to move due to insufficient funding and places further requirements on the PHA regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

PHA Policy
HACLB will deny a family permission to move on grounds that HACLB does not have sufficient funding for continued assistance if: (a) the move is initiated by the family, not the owner or HACLB; (b) HACLB can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) HACLB can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that there is insufficient funding in the annual budget to accommodate the higher subsidy costs.

HACLB will create a list of families whose moves have been denied due to insufficient funding. When funds become available, the families on this list will take precedence over families on the waiting list. HACLB 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. (see section 4-III.D)

In the instance of insufficient funding, HACLB will inform the family of the policy regarding denied moves in writing at the time the move is denied.

Grounds for Denial or Termination of Assistance [24 CFR §982.314(e)(2)]
The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance.

PHA Policy
If HACLB has grounds for denying or terminating a family's assistance, HACLB will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Restrictions on Elective Moves [24 CFR §982.314(c)]
HUD regulations permit PHAs to prohibit any elective move by a participant family during the family's initial lease term. HUD regulations also permit PHAs to prohibit more than one elective move by a participant family during any 12-month period.

However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault or stalking and the move is needed to protect the health or safety of the family or family member. (see section 10-I.A)

In addition, PHAs may not establish a policy permitting moves only at reexamination. [Notice PIH 2012-42]

PHA Policy
HACLB will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within HACLB's jurisdiction or outside it under portability.

HACLB will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in HACLB's jurisdiction.

HACLB will consider exceptions to these policies for reasons such as the following: to protect the health or safety of a family member (e.g. lead-based paint hazards, domestic violence, 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.

In addition, HACLB will allow exceptions to these policies for purposes of Reasonable Accommodation of a family member who is a person with disabilities. (see Chapter 2)

10-I.C. MOVING PROCESS

Notification [24 CFR §982.354(d)(2)]
If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move. [Notice PIH 2012-42]

The notices must be in writing. [24 CFR §982.5]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Approval

PHA Policy
Upon receipt of a family's notification that they wish to move, HACLB will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. HACLB will notify the family in writing of the determination within fifteen (15) business days following receipt of the family's notification.

Reexamination of Family Income and Composition

PHA Policy
For families approved to move to a new unit within HACLB's jurisdiction, HACLB may perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this Plan, based on the family's circumstances.

For families moving into or families approved to move out of HACLB's jurisdiction under portability, HACLB will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

PHA Policy
For families approved to move to a new unit within HACLB's jurisdiction, a new Voucher will be issued within fifteen (15) business days of HACLB's approval to move. A move briefing is required for these families. HACLB will follow the policies set forth in Chapter 5 on Voucher term, extension and expiration. If a family does not locate a new unit within the term of the Voucher (including any extensions), the family may remain in their current unit with continued assistance, if the owner agrees and HACLB approves; otherwise, the family will lose their assistance.

HACLB will follow the policies set forth in Part II of this chapter, for families moving into or out of HACLB's jurisdiction under portability.

Housing Assistance Payments [24 CFR §982.311(d)]
When a family moves out of an assisted unit, the PHA 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 housing unit.

If a family moves from an assisted unit with continued tenant-based assistance, the assisted lease for the new housing 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this Plan, a participant family or an applicant family that has been issued a Voucher has the right to use tenant-based Voucher assistance to lease a unit anywhere in the United States providing that the housing unit is located within the jurisdiction of a PHA administering a tenant-based Voucher program. [24 CFR §982.353(b)]

The process by which a family obtains a Voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **Initial PHA.** The second PHA is called the **Receiving PHA.**

The Receiving PHA has the option of administering the family's Voucher for the Initial PHA or absorbing the family into their program. Under the first option, the Receiving PHA provides all housing services for the family and bills the Initial PHA for the Housing Assistance Payments and administration fees. Under the second option, the Receiving PHA pays for the family's assistance with their own program funds and the Initial PHA has no further relationship with the family. The Initial PHA must contact the Receiving PHA via email or other confirmed delivery method to determine whether the Receiving PHA will administer or absorb the Initial PHA's Voucher. Based on the Receiving PHA's response, the Initial PHA must determine whether they will approve or deny the portability request. [Notice PIH 2012-42]

The same PHA commonly acts as the Initial PHA for some families and as the Receiving PHA for others. Each role involves different responsibilities. PHAs follow the rules and policies in section 10-II.B when it is acting as the Initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the Receiving PHA for a family.

10-II.B. INITIAL PHA's ROLE

Allowable Moves under Portability

A family may move with Voucher assistance only to an area where there is at least one PHA administering a Voucher program. [24 CFR §982.353(b)]

If there is more than one PHA in the area, the Initial PHA provides the family with the contact information for the Receiving PHA that serve the area and the family selects the Receiving PHA. The family must inform the Initial PHA which PHA is selected. If the family prefers not to select the Receiving PHA, the Initial PHA will select the Receiving PHA on the family's behalf. [24 CFR §982.255(b)]

Applicant families that are issued Vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Applicant Families [24 CFR §982.353(c) and 24 CFR §982.354(e)]
Under HUD regulations, most applicant families qualify to lease a unit outside PHA's jurisdiction under portability. However, HUD gives PHAs discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within ten (10) business days of the determination to deny the move.

PHA Policy
In determining whether or not to deny an applicant family permission to move under portability due to insufficient funding or grounds for denying assistance, HACLB will follow the policies established in section 10-I.B of this chapter. If HACLB denies the move due to insufficient funding, HACLB will notify HUD in writing within ten (10) business days of the determination to deny the move.

In addition, PHAs may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program.

PHA Policy
If neither the head of household nor the spouse/co-head of an applicant family had a legal residence in HACLB's jurisdiction at the time the family's application for assistance was submitted, the family must live in HACLB's jurisdiction with Voucher assistance for at least 12 months before requesting portability.

HACLB will consider exceptions to this policy for purposes of Reasonable Accommodation (see Chapter 2) or reasons related to domestic violence, dating violence or stalking. However, any exception to this policy is subject to the approval of the Receiving PHA.

Participant Families [24 CFR §982.353(b)]
The Initial PHA must not provide portable assistance for a participant if a family has moved out of their assisted unit in violation of the lease. The Violence Against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations, but moved to protect the health or safety of a family member who is or was a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the housing unit.

PHA Policy
HACLB will determine whether a participant family may move out of HACLB's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. HACLB will notify the family of the determination, in accordance with the approval policy set forth in section 10-I.C of this chapter.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Determining Income Eligibility

Applicant Families [24 CFR §982.353, 24 CFR §982.355 and [Notice PIH 2012-42]
The family must specify the area to which the family wishes to move. 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 Initial PHA 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, the Initial PHA must inform the family that it may not move there and receive Voucher assistance.

Participant Families [24 CFR §982.353(d)(2) and 24 CFR §982.355(c)(1)]
The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability.

Reexamination of Family Income and Composition

No new reexamination of income and composition is required for an applicant family.

> PHA Policy
> For a family approved to move out of HACLB's jurisdiction under portability, a reexamination of family income and composition will be conducted, only if the family's annual reexamination must be completed on or before the initial billing deadline specified on Form HUD-52665: Family Portability Information.
>
> HACLB will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this Plan require PHAs to provide information on portability to all applicant families that qualify to lease a unit outside of the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

> PHA Policy
> A formal briefing may be required for a participant family wishing to move outside HACLB's jurisdiction under portability. However, HACLB will provide the family with the same oral and written explanation of portability that is provided to applicant families selected for admission to the program (see Chapter 5).
>
> HACLB will provide the name, address and phone number of the contact for the PHA in the jurisdiction where the family chooses to move. If there is more than one PHA with jurisdiction, HACLB will advise the family to select the Receiving PHA. HACLB will further inform the family that if they prefer not to select the Receiving PHA, HACLB will select the Receiving PHA on their behalf.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HACLB will advise the family that the RPHA's policies and procedures will apply, including, but not limited to: screening, Subsidy Standards, Voucher extension policies and Payment Standards.

Voucher Issuance and Term [24 CFR §982.353(b)]
An applicant has no right to portability until after a Voucher is issued. In issuing Vouchers to applicants, the PHA will follow the regulations and procedures set forth in Chapter 5. A new Voucher is not required for portability purposes.

PHA Policy
For families approved to move under portability, HACLB will issue a new Voucher within fifteen (15) business days of approval to move. The initial Voucher term will be from 90 to 120 calendar days. (see Section 5-II.E)

Voucher Extensions and Expiration

PHA Policy
HACLB will approve no extensions to a Voucher issued to an applicant or participant family porting out of HACLB's jurisdiction except under the following circumstances: (a) the initial term of the Voucher will expire before the portable family will be issued a Voucher by the Receiving PHA, (b) the family decides to return to the Initial PHA's jurisdiction and search for a unit there or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on Voucher extensions set forth in Chapter 5, section 5-II.E, of this Plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial Voucher term.

To receive or continue receiving assistance under HACLB's HCV program, the initial billing must be received within 90 days following the expiration date of the family's Voucher. An additional 30 days is permitted, if the delayed billing is due to suspension of the voucher's term. [Notice PIH 2016-09]

Preapproval Contact with the Receiving PHA
Prior to approving a family's request to move under portability, the Initial PHA must contact the Receiving PHA via e-mail or other confirmed delivery method to determine whether the Receiving PHA will administer or absorb the family's Voucher. Based on the Receiving PHA's response, the Initial PHA must determine whether it will approve or deny the move. [Notice PIH 2012-42]

PHA Policy
HACLB will use e-mail, when possible, to contact the Receiving PHA regarding whether the Receiving PHA will administer or absorb the family's Voucher.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Initial Notification to the Receiving PHA [24 CFR §982.355(c)]
After approving a family's request to move under portability, the Initial PHA must promptly notify the Receiving PHA via email or other confirmed delivery method to expect the family. The Initial PHA must also advise the family how to contact and request assistance from the Receiving PHA.

PHA Policy
Because the portability process is time-sensitive, HACLB will notify the Receiving PHA by phone, fax or e-mail to expect the family. HACLB will also ask the Receiving PHA to provide the name, fax, e-mail address and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for Voucher issuance. HACLB will pass this information along to the family. HACLB will also ask for the name, address, telephone number, fax and e-mail of the person responsible for processing the billing information.

Documentation to the Receiving PHA [24 CFR §982.355 and Notice PIH 2012-42]

The Initial PHA is required to send the Receiving PHA the following documents:

- Form HUD-52665: Family Portability Information, with Part I completed;
- 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; and
- Copies of income verifications backing up the Form HUD-50058, including a copy of the family's current EIV data.

PHA Policy
In addition to these documents, HACLB will provide the following information:

- Social security numbers (SSNs) and/or documentation of SSNs for all nonexempt members who have not been verified through the EIV system
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of Earned Income Disallowance (EID), if applicable
- Documentation of participation in a Family Self-Sufficiency (FSS) program

HACLB will notify the family in writing regarding any information provided to the Receiving PHA. [HCV GB, page 13-3]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Initial Billing Deadline [Notice PIH 2012-42, Letter to Executive Directors, 9/15/15]
The deadline for submission of initial billing is 90 days following the expiration date of the Voucher issued to the family by the Initial PHA. If the Initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, the Initial PHA must contact the Receiving PHA to determine the status of the family.

If the Receiving PHA reports that the family is not yet under HAP Contract, the Initial PHA may refuse to accept a late billing submission.

If the Receiving PHA reports that the family is under HAP Contract and the Receiving PHA cannot absorb the family, the Initial PHA must accept a late billing submission; however, the Initial PHA may report the Receiving PHA's failure to comply with the deadline to HUD.

> PHA Policy
> If HACLB has not received an initial billing notice from the Receiving PHA within 90 days of the expiration of HACLB's Voucher, the Receiving PHA will be contacted by phone, fax or e-mail on the next business day.
>
> If the Receiving PHA reports that the family is not yet under HAP Contract, HACLB will inform the Receiving PHA that a late billing submission will not be honored and any subsequent billings received will be returned. HACLB will send the Receiving PHA a written confirmation of this decision by mail.
>
> HACLB will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a Reasonable Accommodation granted to the family by the Receiving PHA.

Monthly Billing Payments [24 CFR §982.355(e) and Notice PIH 2012-42]
If the Receiving PHA is administering the family's Voucher, the Receiving PHA bills the Initial PHA for Housing Assistance Payments and administrative fees. When reimbursing for administrative fees, the Initial PHA must promptly reimburse the Receiving PHA for the lesser of 80 percent of the Initial PHA ongoing administrative fee or 100 percent of the Receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the Receiving PHA is billing the Initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the Receiving PHA may bill.

The Initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the Initial PHA receives Part II of Form HUD-52665 from the Receiving PHA. Subsequent payments must be **received** by the Receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the Receiving PHA is able and willing to accept.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The Initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over-leasing or funding shortfalls. PHAs must manage the HCV program in a manner that ensures the financial ability to provide assistance for families that move under portability and are not absorbed by the Receiving PHA, as well as for families that remain within the PHA's jurisdiction.

PHA Policy
The Initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the Receiving PHA notifies the Initial PHA that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058
If the Initial PHA is being billed on behalf of a portable family, it should receive an updated Form HUD-50058 each year from the Receiving PHA. If the Initial PHA fails to receive an updated Form HUD-50058 by the family's annual reexamination date, the Initial PHA should contact the Receiving PHA to verify the status of the family.

Denial or Termination of Assistance [24 CFR §982.355(c)(9)]
If the Initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the Receiving PHA, the Initial PHA may act on those grounds at any time. (see Chapters 3 and 12)

10-II.C. RECEIVING PHA's ROLE [24 CFR §982.355]
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. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families.

Administration of the Voucher must be in accordance with the Receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The Receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family and the Receiving PHA waiting list is not used.

The family's unit or Voucher, size is determined in accordance with the Subsidy Standards of the Receiving PHA and the Receiving PHA's policies on extensions of the Voucher term apply.

Responding to Initial PHA's Request
The Receiving PHA must respond via e-mail or other confirmed delivery method to the Initial PHA's inquiry to determine whether the family's Voucher will be billed or absorbed. If the Receiving PHA informs the Initial PHA that it will be absorbing the Voucher, the Receiving PHA cannot reverse the decision at a later date without consent of the Initial PHA.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy
HACLB will use e-mail, when possible, to notify the Initial PHA whether it will administer or absorb the family's Voucher.

Initial Contact with Family [Notice PIH 2012-42 and 24 CFR §982.355(c)]
When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the Receiving PHA's Voucher.

If the Voucher issued to the family by the Initial PHA has expired, the Receiving PHA must contact the Initial PHA to determine if it will extend the Voucher.

If for any reason the Receiving PHA refuses to provide assistance to a family under portability, the family must be given the opportunity for an Informal Review/Hearing.

Briefing [Notice PIH 2012-42]
HUD allows the Receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search.

PHA Policy
HACLB will require the family to attend a briefing. HACLB will provide the family with a briefing packet (see Chapter 5) and, in an individual or group briefing, will orally inform the family about HACLB's payment and Subsidy Standards, procedures for requesting approval of a unit, the housing unit inspection process and the leasing process.

Income Eligibility and Reexamination [24 CFR §982.355(c)]
The Receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the Initial PHA's Voucher program. If the Receiving PHA opts to conduct a new reexamination for a current participant family, the Receiving PHA may not delay issuing a Voucher or otherwise delay approval of a unit.

PHA Policy
A new reexamination of family income and composition will be conducted for family's moving into HACLB's jurisdiction under portability. However, HACLB will not delay issuing a Voucher for this reason. Nor will HACLB delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and HACLB cannot otherwise confirm income eligibility for admission to the HCV program in the area where the unit is located.

In conducting a reexamination, HACLB will rely upon verifications provided by the Initial PHA to the extent that the verifications (a) accurately reflect current circumstances; and (b) were obtained within the last 120 calendar days. Any new information may be verified by documents provided by the family.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Voucher Issuance [24 CFR §982.355(c)]
When a family moves into the PHA's jurisdiction under portability, the Receiving PHA is required to issue the family a Voucher. The family must submit a request for tenancy approval to the Receiving PHA during the term of the Receiving PHA's Voucher.

Timing of Voucher Issuance. [Notice PIH 2012-42]
HUD expects the Receiving PHA to issue the Voucher within two weeks after receiving the family's paperwork from the Initial PHA, if the information is in order, the family has contacted the Receiving PHA and the family complies with the Receiving PHA's procedures.

PHA Policy
When a family ports into HACLB's jurisdiction, a Voucher will be issued based on the paperwork provided by the Initial PHA, unless the family's paperwork from the Initial PHA is incomplete, the family's Voucher from the Initial PHA has expired or the family does not comply with HACLB's procedures.

HACLB will update the family's information when verification is completed.

Voucher Term [24 CFR §982.355(c)(13)]
The term of the Receiving PHA's Voucher may not expire before 30 calendar days from the expiration of the Initial PHA's Voucher.

PHA Policy
As the Receiving PHA, HACLB will issue a Voucher with an expiration of date of 30 calendar days from the Initial PHA's Voucher expiration date.

Voucher Extensions [24 CFR §982.355(c)(14) and Notice PIH 2012-42]
Once the Receiving PHA issues the portable family a Voucher, the Receiving PHA's policies on extensions of the Voucher term apply. The Receiving PHA must inform the Initial PHA of any extension granted. It must also bear in mind the billing deadline provided by the Initial PHA.

Unless willing and able to absorb the family, the Receiving PHA should ensure that any Voucher expiration date leaves sufficient time to process a request for tenancy approval, execute a HAP Contract and deliver the initial billing to the Initial PHA.

PHA Policy
HACLB will generally not extend the Voucher term for an incoming portable family, unless the family will be absorbed into HACLB's HCV program.

HACLB will consider an exception to this policy as a Reasonable Accommodation to a person with disabilities. (see Chapter 2)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Voucher Suspensions [24 CFR §982.303, 24 CFR §982.355(c)(15)]
If the family submits a request for tenancy approval during the term of the Receiving PHA's Voucher, the PHA must suspend the term of that Voucher. The term of the Voucher stops from the date that the family submits a Request For Tenancy Approval to the PHA until the date the PHA notifies the family in writing whether the request has been approved or denied. [24 CFR §982.4(b)] (see section 5-II.E)

Notifying the Initial PHA [Notice PIH 2012-42]
The Receiving PHA must promptly notify the Initial PHA if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the Receiving PHA's Voucher. [24 CFR §982.355(c)(16)]

The Receiving PHA is required to use Part II of Form HUD-52665, Family Portability Information, for this purpose.

If an incoming portable family ultimately decides not to lease in the jurisdiction of the Receiving PHA and wishes to return to the Initial PHA's jurisdiction or to search in another jurisdiction, the Receiving PHA must refer the family back to the Initial PHA. In such a case the Voucher of record for the family is once again the Voucher originally issued by the Initial PHA. Any extension of search time provided by the Receiving PHA's Voucher is only valid for the family's search in the Receiving PHA's jurisdiction.

Administering a Portable Family's Voucher

Portability Billing [24 CFR §982.355(e)]
To cover assistance for a portable family that was not absorbed, the Receiving PHA bills the Initial PHA for Housing Assistance Payments and administrative fees. The Housing Assistance Payment for a portable family in the Receiving PHA's program is determined in the same manner as for other families in the Receiving PHA's program.

The Receiving PHA may bill the Initial PHA for the lesser of 80 percent of the Initial PHA's ongoing administrative fee or 100 percent of the Receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the Receiving PHA is billing the Initial PHA. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the Receiving PHA may bill (i.e., the Receiving PHA may bill for the lesser of 80 percent of the Initial PHA's prorated ongoing administrative fee or 100 percent of the Receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

> PHA Policy
> Unless HACLB negotiates a different amount of reimbursement with the Initial PHA, HACLB will bill the Initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration is properly applied.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Initial Billing Deadline [Notice PIH 2016-09]
If a portable family's search for a unit is successful and the Receiving PHA intends to administer the family's Voucher, the Receiving PHA must submit an initial billing notice (Form HUD-52665, Part II): (a) no later than ten (10) business days following the date the Receiving PHA **executes** a HAP Contract on behalf of the family; **and** (b) in time that the notice will be **received** no later than 90 days following the expiration date of the family's Voucher issued by the Initial PHA. An additional 30 days is permitted, if the delayed billing is due to suspension of the voucher's term.

A copy of the family's Form HUD-50058, Family Report, completed by the Receiving PHA, must be attached to the initial billing notice. The Receiving PHA may send these documents by mail, fax or e-mail.

> PHA Policy
> HACLB will send an initial billing notice by fax or e-mail, if necessary, to meet the billing deadline.

If the Receiving PHA fails to send the initial billing within ten (10) business days following the date the HAP Contract is executed, the family must be absorbed by the Receiving PHA, unless: (a) the Initial PHA is willing to accept the late submission; or (b) HUD requires the Initial PHA to honor the late submission, e.g. because the Receiving PHA is over-leased.

Ongoing Notification Responsibilities [Notice PIH 2011-03 and Form HUD-52665]

Annual Reexamination. The Receiving PHA must send the Initial PHA a copy of a portable family's updated Form HUD-50058 after each annual reexamination for the duration of time the Receiving PHA is billing the Initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

> PHA Policy
> HACLB will send a copy of the updated HUD-50058 by regular mail at the same time the family and owner are notified of the reexamination results.

Change in Billing Amount. The Receiving PHA uses Form HUD-52665 to notify the Initial PHA 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; or
- Termination of the family from the program.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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 ten (10) business days following the effective date of the change in the billing amount. If the Receiving PHA fails to send Form HUD-52665 within ten (10) business days of the effective date of the billing changes, the Initial PHA is not responsible for any increase prior to notification.

Late Payments [Notice PIH 2011-3 and Notice PIH 2012-42]
If the Initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the Receiving PHA must promptly notify the Initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due and the date the billing payment was received (if it arrived late).

The Receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the Receiving PHA. If the Initial PHA fails to correct the problem by the second month following the notification, the Receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the Receiving PHA that HUD transfer the housing unit in question. A copy of the initial notification and any subsequent correspondence between the PHA on the matter must be attached. The Receiving PHA must send a copy of the memorandum to the Initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, and the Initial PHA is still responsible for any outstanding payments due to the Receiving PHA.

Overpayments [Notice PIH 2012-42]
When the Receiving PHA has received billing payments for billing arrangements no longer in effect, the Receiving PHA is responsible for returning the full amount of overpayments, including administrative fees, to the Initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the Receiving PHA failed to notify the Initial PHA that the billing arrangement was terminated, the Receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the Initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the Receiving PHA of the date and the amount of reimbursement to the Initial PHA.

At HUD's discretion, the Receiving PHA will be subject to the sanctions spelled out in Notice PIH 2012-42.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Denial or Termination of Assistance [Form HUD-52665 and Notice PIH 2012-42] At any time, the Receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction. [24 CFR §982.355(c)(17)]

In the case of a termination, the PHA should provide adequate notice of the effective date to the Initial PHA to avoid having to return a payment. In no event should the Receiving PHA fail to notify the Initial PHA later than ten (10) business days following the effective date of the termination of the billing arrangement.

PHA Policy

If HACLB elects to deny or terminate assistance for a portable family, the Initial PHA will be notified within ten (10) business days after the Informal Review/Hearing, if the denial or termination is upheld.

HACLB will base the denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The Informal Review/Hearing will be held, in accordance with the policies in Chapter 16. The Receiving PHA will furnish the Initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family [24 CFR §982.355(d)(1) and Notice PIH 2012-42] The Receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP Contract on behalf of the family or at any time thereafter providing, that the PHA has funding available under the Annual Contributions Contract.

If the Receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the Receiving PHA. [24 CFR §982.201(b)(2)(vii)]

If the Receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the Initial PHA, HUD encourages the Receiving PHA to provide adequate advance notice to the Initial PHA to avoid having to return an overpayment. The Receiving PHA must specify the effective date of the absorption of the family.

PHA Policy

If HACLB decides to absorb a portable family upon the execution of a HAP Contract on behalf of the family, HACLB will notify the Initial PHA by the initial billing deadline specified on Form HUD-52665. The effective date of the HAP Contract will be the effective date of the absorption.

If HACLB decides to absorb a family after the HAP Contract is executed, the Initial PHA will be given 30 calendar days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the Receiving PHA's Voucher program [24 CFR §982.355(d)] and the Receiving PHA becomes the Initial PHA in any subsequent moves by the family under portability. [24 CFR §982.355(e)(4)]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 11

REEXAMINATIONS

INTRODUCTION

The Housing Authority of the City of Long Beach (HACLB) is required to reexamine each family's income and composition at least annually and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations and the recalculation of family share and subsidy that occurs as a result. U.S. Department of Housing and Urban Development (HUD) regulations and HACLB policies concerning reexaminations are presented in three parts:

> Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.
>
> Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.
>
> Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing Reasonable Accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this Plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR §982.516]

11-I.A. OVERVIEW

Public Housing Agencies (PHAs) must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income and expenses. Based on this updated information, the family's income and rent is recalculated. This part discusses the schedule for annual reexaminations, the information to be verified and effective dates.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS [HCV GB, page 12-1]

PHAs must establish a policy to ensure that annual reexaminations are completed *within* a 12-month period and may require reexaminations more frequently

> PHA Policy
> HACLB will begin the annual reexamination process 120 days in advance of the scheduled effective date. Generally, HACLB will schedule annual reexamination effective dates to coincide with the family's anniversary date.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

"Anniversary date" is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, HACLB will perform a new annual reexamination. HACLB may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, the PHA should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time. [Notice PIH 2009-36]

PHA Policy

Annual reexaminations may be conducted by mail. If so, notification of the annual reexamination will be sent by first-class mail and will inform the family of the information and documentation that must be provided to HACLB and the deadline for providing it. Documents will be accepted by mail or in-person.

If the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, as well as to any alternate address provided in the family's file.

If the notice is returned by the post office with a forwarding address, a notice of termination (see Chapter 12) will be sent to the forwarding address, as well as to any alternate address provided in the family's file.

If a family returns their annual reexamination paperwork by the stated deadline, the paperwork is complete and fully legible and all required documents are returned, HACLB will complete the annual reexamination without calling the family in for a face-to-face interview.

If a family does not return their annual reexamination paperwork by the stated deadline or the paperwork is returned on time and is either incomplete or illegible, or the family fails to provide all required documentation, the family will be scheduled for a face-to-face interview.

An interview will be scheduled if the family requests assistance in providing information or documentation requested by HACLB. HACLB reserves the right to schedule face-to-face interviews at HACLB's discretion.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time and location of the interview. In addition, the notice will inform the family of the documentation to bring to the interview.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If the family is unable to attend a scheduled interview, the family should contact HACLB in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, HACLB will send a second notification with a new interview appointment time.

Families that fail to attend two scheduled interviews without HACLB approval will be a sent a notice of termination in accordance with Chapter 12 of this Plan.

An advocate, interpreter or other assistant may assist the family in the interview process. The family and HACLB must execute a certification attesting to the role and assistance of any such third party.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS [24 CFR §982.551(b)]

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses and composition.

PHA Policy

Families will be asked to provide all required information by mail or bring all required information to the reexamination appointment, as described in the reexamination notice.

The required information will include a PHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within ten (10) business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), a notice of proposed termination will be sent. (see Chapter 12)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If adding a new family member to the housing unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the PHA must issue the family a new Voucher and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rent by the family, the PHA must terminate the HAP Contract in accordance with its terms. [24 CFR §5.403]

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR §982.552(b)(5))]

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

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

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who receive assistance on their own separately from their parents.

> PHA Policy
>
> During the annual reexamination process, HACLB will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR §5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.
>
> If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.
>
> If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), HACLB will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES [24 CFR §982.516]

PHAs must establish policies concerning the effective date of changes that result from an annual reexamination.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date and the family will be notified at least 30 days in advance. 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 a 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 HACLB chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by HACLB and will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a Repayment Agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date. If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP Contract.

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

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by HACLB by the date specified or the family misses scheduled appointments and this delay prevents HACLB from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR §982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted. [HCV GB, page 12-10]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and HACLB policies describing what changes families are required to report, what changes families may choose to report and how HACLB will process both HACLB and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

PHAs must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

> PHA Policy
> HACLB will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval [24 CFR §982.551(h)(2)]

The addition of a family member as a result of birth, adoption or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition.

> PHA Policy
> The family must inform HACLB of the birth, adoption or court-awarded custody of a child within ten (10) business days.

New Family and Household Members Requiring Approval [24 CFR §982.551(h)]

With the exception of children who join the family as a result of birth, adoption or court-awarded custody, a family must request PHA approval to add a new family member or another household member, i.e. live-in aide or foster child.

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member and to make appropriate adjustments in the family share of the rent and the HAP payment. [24 CFR §982.516(e)]

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new Voucher and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP Contract in accordance with its terms. [24 CFR §5.403]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

Families must request HACLB 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 housing unit for more than 30 consecutive days or 60 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Foster children and foster adults may be granted "guest" status for a period not to exceed 90 days. Requests must be made in writing and approved by HACLB prior to the individual moving into the housing unit.

HACLB will not approve the addition of a new family member, unless the individual meets HACLB's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II). HACLB will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

HACLB will not approve a request to add an entire family unit, two persons or more, to the current household composition. If the head of household adds a spouse or marital-type partner, HACLB will allow the addition of the minor children of that person, upon verification that they will live with the assisted family at least 50% of the time.

For administrative and budgetary reasons, HACLB will only consider one request to add a family member to the household composition on an annual basis. However, a request to add a live-in aide does not bar the family from adding an additional member within the year.

HACLB also may not consider a request to approve the return of a household member that was removed from household composition within the last 12 months. Exceptions may be granted as a reasonable accommodation or other emergency situation.

If the PHA determines an individual meets the PHA's eligibility criteria and documentation requirements, HACLB will provide written approval to the family.

If HACLB determines that an individual does not meet the eligibility criteria or documentation requirements, HACLB will notify the family in writing of the decision to deny approval of the new family or household member, provide the reasons for the denial and an opportunity for an Informal Review.

HACLB will make the determination within fifteen (15) business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member [24 CFR §982.551(h)(3)]

Families must promptly notify the PHA if any family member no longer lives in the housing unit. Because household members are considered when determining the Voucher size, the PHA also needs to know when any live-in aide, foster child or foster adult ceases to reside in the housing unit.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

If a household member ceases to reside in the housing unit, the family must inform HACLB within ten (10) business days. This requirement also applies to a family member who is considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child or foster adult ceases to reside in the housing unit, the family must inform HACLB within ten (10) business days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily or because it was required to do so.

PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. This type of reexamination is not scheduled because of changes reported by the family.

PHA Policy

HACLB will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), HACLB will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period).
- If the family reports zero income, HACLB will conduct an interim reexamination every six (6) months.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next twelve (12) months, e.g. seasonal or cyclic income, HACLB may schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

HACLB may conduct an interim reexamination at any time in order to correct an error in a previous reexamination or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations [24 CFR §982.516]

PHAs must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Required Reporting
HUD regulations give PHAs the freedom to determine the circumstances under which families will be required to report changes affecting income.

PHA Policy
Zero income families are required to report all increases in income and new income sources, including new employment, within ten (10) business days of the date the change takes effect.

Families other than zero-income families are required to report all increases in income, including new employment, within ten (10) business days of the date the change takes effect.

HACLB will only conduct interim reexaminations for families that qualify for the Earned Income Disallowance (EID) and only when the family's share of rent will change as a result of the increase. In all other cases, HACLB will note the information in the tenant file and will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

Optional Reporting [24 CFR §982.516(b)(2) and HCV GB, page 12-9]
The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. PHAs must process the request, if the family reports a change that will result in a reduction.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced. [see Chapter 6 and 24 CFR §5.615]

PHA Policy
If a family reports a change that was not required that would result in an increase in the family share of the rent, HACLB will note the information in the tenant file and will not conduct an interim reexamination.

If a family reports a change that was not required that would result in a decrease in the family share of rent, HACLB will conduct an interim reexamination. (see Section 11-II.D for effective dates)

If a Family Self-Sufficiency (FSS) participant requests an interim reexamination for changes that would positively impact their FSS escrow, HACLB will process the reexamination.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

PHA Policy
The family may notify HACLB of changes either orally or in writing. If the family provides oral notice, HACLB will also require the family to submit the changes in writing. HACLB will accept required documentation by mail, by fax or in person.

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

Based on the type of change reported, HACLB will determine the documentation the family will be required to submit. The family must submit required documents within ten (10) business days of receiving a request from HACLB. This time frame may be extended for good cause with HACLB approval.

Effective Dates [HCV GB, page 12-10 and 24 CFR §982.516(d)]
PHAs must establish the time frames in which any changes that result from an interim reexamination will take effect. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent and whether the family reported any required information within the required time frames

PHA Policy
If the family share of the rent is to *increase*:
The increase will generally be effective on the first of the month following 30 days' notice to the family. If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided in a timely basis. The family will be responsible for any overpaid subsidy and may be offered a Repayment Agreement, in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:
The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases when the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW [24 CFR §982.516(d)(2) and HCV GB 12-6 and 12-10]
After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes. While the basic policies that govern calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. PAYMENT STANDARDS AND UTILITY ALLOWANCES 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 the PHA's calculations.

Payment Standards [24 CFR §982.505 and HCV GB, page 12-5]
The family share of the rent and HAP calculations must use the correct Payment Standard, taking into consideration the family unit size, the size of unit and the area in which the housing unit is located. (see Chapter 6 for information on how to select the appropriate Payment Standard)

When the PHA changes the Payment Standards or the family's situation changes, new Payment Standards are applied at the following times:

- If the PHA's Payment Standard changes during the term of the HAP Contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the Payment Standard amount has i*ncreased,* the new Payment Standard will be applied at the *first annual* reexamination following the effective date of the increase in the Payment Standard.
  - If the Payment Standard amount has *decreased*, the new Payment Standard will be applied at the *second annual* reexamination following the effective date of the decrease in the Payment Standard.
- If the family moves to a new unit or a new HAP Contract is executed due to changes in the lease, even if the family remains in place, the current applicable Payment Standard will be used when the new HAP Contract is processed.

Subsidy Standards [24 CFR §982.505(c)(4)]
If there is a change in the family unit size that would apply to a family during the HAP Contract term, either due to a change in family composition or a change in the PHA's Subsidy Standards (see Chapter 5), the new family unit size must be used to determine the Payment Standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Utility Allowances [24 CFR §982.517(d) and HCV GB, page 12-5]
The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner or in the PHA's Utility Allowance Schedule. When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP Contract are executed. (Chapter 16 discusses how Utility Allowance Schedules are established)

HCV regulations require PHAs to use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the Voucher size issued, as determined under the PHA subsidy standards. In cases when a reasonable accommodation is provided to a family that includes a person with disabilities, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family. [Notice PIH 2016-05]

At annual reexamination, the PHA must use the current Utility Allowance Schedule.

> PHA Policy
> Revised Utility Allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

PHAs must notify the owner and family of any changes in the amount of the HAP payment. [HUD-52641, HAP Contract] The notice must include the following information [HCV GB, page 12-6]:

- The amount and effective date of the new HAP payment;
- The amount and effective date of the new family share of the rent; and
- The amount and effective date of the new tenant rent to owner.

Families must be given an opportunity for an Informal Hearing regarding a PHA's determination of annual or adjusted income and the use of such income to compute the Housing Assistance Payment. [24 CFR §982.555(a)(1)(i)] (see Chapter 16).

> PHA Policy
> The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the Housing Assistance Payment. The notice also will state the procedures for requesting an Informal Hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

The U.S. Department of Housing and Urban Development (HUD) regulations specify the reasons for which the Housing Authority of the City of Long Beach (HACLB) can terminate a family's assistance and the ways in which such terminations must take place. The regulations also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy and termination by HACLB based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that HACLB may consider in lieu of termination, the criteria HACLB must use when deciding what action to take and the steps HACLB must take when terminating a family's assistance.

Part III: Termination of Tenancy by the owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires Public Housing Agencies (PHAs) to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits PHAs to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving Housing Choice Voucher (HCV) program assistance at any time by notifying the PHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR §982.455]

As a family's income increases, the amount of the PHA's subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

PHA Policy

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate the family's assistance at any time.

PHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse or co-head.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires PHAs to terminate assistance in the following circumstances.

Eviction [24 CFR §982.552(b)(2) and Subpart L §5.2005(c)(1)]

PHAs must terminate assistance when a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

PHA Policy

A family will be considered *evicted* if the family moves after a legal eviction order or unconditional judgment is issued, whether or not physical enforcement of the order was necessary, if the eviction was for a serious or repeated violation of the lease.

A family will not be considered to have been evicted if a stipulated judgement or settlement agreement is entered into with the owner. Additionally, HACLB will not consider the family to have been evicted, even if the family vacates the unit.

If a family moves after the owner serves a notice to quit for serious or repeated lease violations and before a legal eviction order is issued, termination of assistance is not mandatory. In such cases, HACLB will determine whether the family committed serious or repeated violations of the lease, based on available evidence, and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making the decision, HACLB will consider the factors described in sections 12-II.D through E. Upon consideration of such factors, HACLB may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations include:

- nonpayment of rent;
- prohibited drug-related or violent criminal activity by any member of the household, a guest or another person under a resident's control;
- violation of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises; and
- prohibited drug-related/violent criminal activity or alcohol abuse (as provided in paragraph C of HUD's Tenancy Addendum – Form HUD-52641A).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Failure to Provide Consent [24 CFR §982.552(b)(3)]
PHAs must terminate assistance if any family member fails to sign and submit any consent form that is required for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR §982.552(b)(4) and 24 CFR §5.514(c)]
PHAs must terminate assistance if:

(1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
(2) a family submits evidence of citizenship and eligible immigration status in a timely manner and the U.S. Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or
(3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the housing unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household when the family's assistance is prorated. (see Chapter 7)

Failure to Disclose Social Security Numbers [24 CFR §5.218, Notice PIH 2012-10]
The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

> PHA Policy
> HACLB will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR §982.553(b)(1)(ii)]
PHAs must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]
Should the PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove the individual from the household, the PHA must terminate assistance for the household.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR §982.552(b)(5) and FR 4/10/06]
If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an assisted household and is not a person with disabilities receiving HCV assistance as of November 30, 2005, PHAs must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students must be issued a Voucher to move with continued assistance, in accordance with program regulations and the PHA policies or may lease in place, if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR §982.311(d) and Notice PIH 2010-9]
PHAs must immediately terminate program assistance for deceased single member households. The owner is not entitled to HAP for any month following the month in which the death occurred.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR §982.553(b) and 24 CFR §982.551(l)]
HUD requires PHAs to establish policies that permit a PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Use of Illegal Drugs and Alcohol Abuse

PHA Policy

HACLB 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.

HACLB 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 twelve months.

HACLB 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 the decision to terminate assistance, HACLB will consider alternatives and other factors, as described in Section 12-II.C through E. Upon consideration of such alternatives and factors, HACLB may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR §5.100]

"Drug" means a controlled substance, as defined in section 102 of the Controlled Substances Act. (21 U.S.C. §802)

"Drug-related criminal activity" is defined by HUD as the illegal manufacture, sale, distribution or use of a drug or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

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

PHA Policy

HACLB 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.

HACLB 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

In making the decision to terminate assistance, HACLB will consider alternatives and other factors, as described in Section 12-II.C through E. Upon consideration of such alternatives and factors, HACLB may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR §982.552(c) and §5.2005(c)]

HUD permits PHAs to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E, the Violence Against Women Reauthorization Act of 2013 (VAWA) explicitly prohibits PHAs from considering incidents of or criminal activity directly related to, domestic violence, dating violence or stalking as reasons for terminating the assistance of a victim of such abuse.

PHA Policy

HACLB **will not** terminate a family's assistance because of the family's failure to meet obligations under the Family Self-Sufficiency program.

HACLB **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. (see Exhibit 12-1 for a listing of family obligations)
- Any family member has been evicted from federally-assisted housing in the last three (3) years.
- Any family member has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA in connection with Section 8 or public housing assistance under the United States Housing Act of 1937.
- The family has breached the terms of a Repayment Agreement entered into with HACLB.
- A family member has engaged in or threatened violent or abusive behavior toward HACLB personnel.
- *Abusive or violent behavior towards HACLB 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

In making the decision to terminate assistance, HACLB will consider alternatives and other factors, as described in Section 12-II.C through E. Upon consideration of such alternatives and factors, HACLB may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR §982.312]
The family may be absent from the housing unit for brief periods. PHAs must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the housing unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the housing unit.

PHA Policy
If the family is absent from the housing unit for more than 60 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F. A family may request an exception in writing and provide documentation as to why the exception should be granted.

HACLB will review the documentation and may grant an exception on a case-by-case basis. In no case will HACLB grant an exception for an absence from the housing unit for more than 180 consecutive calendar days.

Insufficient Funding [24 CFR §982.454]
PHAs may terminate HAP Contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

PHA Policy
HACLB will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If HACLB determines there is a shortage of funding, prior to terminating any HAP Contracts, HACLB will determine if any other actions can be taken to reduce program costs.

In the event that HACLB decides to stop issuing Vouchers as a result of a funding shortfall and HACLB is not assisting the required number of Special Purpose Vouchers (NED families and HUD-Veterans Affairs Supportive Housing (VASH) families and family unification program (FUP) families), when HACLB resumes issuing Vouchers, HACLB will issue Vouchers first to the Special Purpose Voucher families on the 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, HACLB will terminate HAP Contracts as a last resort.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Prior to terminating any HAP Contracts, HACLB will inform the local HUD field office. HACLB will terminate the minimum number needed in order to reduce HAP costs to a level within HACLB's annual budget authority.

If HACLB must terminate HAP Contracts due to insufficient funding, HACLB will do so in accordance with the following criteria and instructions:

- Families with Special Purpose Vouchers, including Non-Elderly Disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH) and family Unification Program (FUP) will be the last to be terminated.
- Families that have been on the program the longest will be the first families terminated for insufficient funding. However, HACLB will not terminate elderly, near-elderly or disabled families.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

PHAs are required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give PHAs the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions PHAs may choose to take when it has discretion and outlines the criteria PHAs use to make the decision about, whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR §982.552(a)(3)]

The way in which PHAs terminate assistance depends upon individual circumstances. HUD permits PHAs to terminate assistance by:

- Terminating Housing Assistance Payments under a current HAP Contract,
- Refusing to approve a request for tenancy or to enter into a new HAP Contract or
- Refusing to process a request for or to provide assistance under portability.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition [24 CFR §982.552(c)(2)(ii)]

As a condition of continued assistance, the PHA may require that a household member who participated in or was responsible for an offense no longer resides in the unit.

PHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon HACLB request.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Repayment of Family Debts

PHA Policy
If a family owes amounts to HACLB, as a condition of continued assistance, HACLB will require the family to repay the full amount or to enter into a Repayment Agreement within 30 calendar days of receiving notice from HACLB of the amount owed. (see Chapter 16 for policies on Repayment Agreements)

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence [24 CFR §982.553(c)]
For criminal activity, HUD permits PHAs to terminate assistance if a preponderance of the evidence indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted.

PHA Policy
HACLB 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 is determined by the greater weight of all the evidence, rather than the number of witnesses.

Consideration of Circumstances [24 CFR §982.552(c)(2)(i)]
PHAs are permitted to consider all relevant circumstances when determining whether a family's assistance should be terminated.

PHA Policy
HACLB will consider the following factors when making the decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents;
- The effects that termination 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 or stalking; (discussed further in section 12-II.E)
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- 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;

- HACLB will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully;

- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

Reasonable Accommodations [24 CFR §982.552(c)(2)(iv)]
If the family includes a person with disabilities, the PHA's decision to terminate HCV assistance is subject to consideration of Reasonable Accommodation, in accordance with 24 CFR Part 8.

PHA Policy
If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, HACLB will determine whether the behavior is related to the disability. If so, upon the family's request, HACLB will determine whether alternative measures are appropriate as a Reasonable Accommodation.

HACLB will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. (see Chapter 2 for a discussion of Reasonable Accommodation)

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE or STALKING

This section describes the protections against termination of assistance that the Violence Against Women Reauthorization Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking. For general VAWA requirements, key VAWA definitions and PHA policies pertaining to notification, documentation and confidentiality, see section 16-IX of this Plan.

VAWA Protections Against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (*Note:* The second, third and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

First, VAWA provides that the PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the housing unit. [24 CFR §982.354(b)(4)]

Second, VAWA provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim. [24 CFR §5.2005(c)(1)]

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence or stalking. [24 CFR §5.2005(c)(2)]

Fourth, it gives HACLB the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to or otherwise penalizing, the victim of the violence. [24 CFR §5.2009(a)]

Limitations on VAWA Protections [24 CFR §5.2005(d) and (e)]
VAWA does not limit the authority of the PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants.

Likewise, VAWA does not limit the PHA's authority to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking, if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property, if the victim is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame and (c) could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur;
- The length of time before the potential harm would occur. [24 CFR §5.2005(e)]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize the PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat". [24 CFR §5.2005(d)(3)]

PHA Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, HACLB will consider the following and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest HACLB's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the Informal Hearing.

Documentation of Abuse [24 CFR Part 5, Subpart L, §5.2007]

PHA Policy

When an individual faces termination of assistance claims protection under VAWA, for reasons related to domestic violence, dating violence, sexual assault or stalking. HACLB will request documentation supporting the claim, in accordance with the policies in section 16-IX.D of this plan.

HACLB reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases, HACLB will document the waiver in the family's file.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives PHAs the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant". [24 CFR §5.2009(a)]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family. [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs]

PHA Policy

HACLB will terminate assistance to a family member if HACLB determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making a decision, HACLB will consider all credible evidence, including, but not limited to, a signed certification (Form HUD-5382) or other documentation of abuse submitted to HACLB by the victim in accordance with this section and section 16-IX.D. HACLB will also consider the factors in section 12-II.D. Upon such consideration, HACLB may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If HACLB terminates the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations and the policies in this Plan.

12-II.F. TERMINATION NOTICE

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an Informal Hearing. However, since the family's HAP Contract and lease will also terminate when the family's assistance terminates, it is a good business practice to provide written notification to both owner and family any time assistance will terminate, whether voluntarily or involuntarily.

PHA Policy

When a family's assistance will be terminated, HACLB will send a written notice of proposed termination to the family and the owner. HACLB will also include Form HUD-5380 and HUD-5382, i.e. VAWA information. The notice will state the effective date of the proposed termination. This date will be at least thirty (30) calendar days following the date of the termination notice. Exceptions will be made when HUD rules, other HACLB policies or the circumstances surrounding the termination require an earlier date.

When HACLB notifies an owner that a family's assistance will be terminated, HACLB will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If a family whose assistance is being terminated is entitled to an Informal Hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and the PHA notice requirements discussed in section 16-III.C of this Plan. VAWA 2013 expands notification requirements to require the PHA to provide notice of VAWA rights and form HUD-5380 and HUD-5382 when the PHA terminates a household's housing benefits.

> PHA Policy
> Whenever HACLB decides to terminate a family's assistance because of the family's action or failure to act, HACLB will include the VAWA information described in section 16-IX.C of this Plan and Form HUD-5380 and HUD-5382 with the termination notice. HACLB will request in writing that a family member wishing to claim VAWA protection notify HACLB within ten (10) business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, a copy of the record must accompany (or precede) the termination notice and a copy of the record must also be provided to the subject of the record; and [24 CFR §982.553(d)]
- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY

[24 CFR §982.310, 24 CFR §5.2005(c) and Form HUD-52641-A, Tenancy Addendum]
During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence or stalking and the victim is protected from eviction by the Violence Against Women Reauthorization Act of 2013. (see section 12-II.E) A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Violation of Federal, State or Local Law
The owner is permitted to terminate the tenancy if a family member violates federal, state or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse
The owner may terminate tenancy during the term of the lease if any *covered person*—meaning any member of the household, a guest or another person under the tenant's control—commits any of the following types of criminal activity:
(for applicable definitions, see 24 CFR §5.100)

- Any criminal activity that threatens the health or safety of or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health or safety of or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence or stalking, if the tenant or an immediate member of the tenant's family is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy. (see section 12-II.E)

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity
The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Other Good Cause
During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property or living or housekeeping habits that cause damage to the housing unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the housing 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, e.g. sale of the property, renovation of the housing unit or desire to lease the housing 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.

12-III.C. EVICTION [24 CFR §982.310(e-f) and Form HUD-52641-A]
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, 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 housing unit by instituting court action.

The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice. (see Chapter 5)

> PHA Policy
> If an eviction action is finalized in court, the owner must provide HACLB with documentation of the court-ordered eviction, including the eviction date, no later than five (5) business days following the court-ordered eviction.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY

[24 CFR §982.310(h), 24 CFR §982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action;
- The seriousness of the offending action;
- The effect on the community of the termination or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, when that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. §13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR §5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence or stalking is limited by the Violence Against Women Reauthorization Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (see section 12-II.E)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease and if the PHA has no other grounds for termination of assistance, the PHA may issue a new Voucher so that the family can move with continued assistance. (see Chapter 10)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

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

  PHA Policy
  Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the PHA to inspect the housing unit at reasonable times and after reasonable notice, as described in Chapter 8 of this Plan.
- The family must not commit any serious or repeated violation of the lease.

  PHA Policy
  HACLB will determine if a family has committed serious or repeated violations of the lease based on available evidence, including, but not limited to, a court-ordered eviction or an owner's notice to evict.

  Serious and repeated lease violations include, but are not be limited to, non-payment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the housing unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of or criminal activity related to, domestic violence, dating violence or stalking will not be construed as serious or repeated lease violations. [24 CFR §5.2005(c)(1)]

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

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the family residing in the housing unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the housing unit.

  PHA Policy
  The request to add a family member must be submitted in writing and approved prior to the person moving into the housing unit. HACLB will determine eligibility of the new member, in accordance with the policies in Chapter 3.

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

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

- The family must supply any information requested by the PHA to verify that the family is living in the housing unit or information related to family absence from the housing unit.
- The family must promptly notify the PHA when the family is absent from the housing unit.

  PHA Policy
  Notice is required under this provision only when all family members will be absent from the housing unit for an extended period. An extended period is defined as any period greater than sixty (60) calendar days. Written notice must be provided to HACLB at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease. [Form HUD-52646, Voucher]
- The family must not own or have any interest in the housing unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Family members must not commit fraud, bribery or any other corrupt or criminal act in connection with the program. (see Chapter 14, Program Integrity for additional information)
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. (see Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity)
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the housing unit, notwithstanding such relationship, would provide Reasonable Accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 13

OWNERS

INTRODUCTION

Owners play a central role in the Housing Choice Voucher (HCV) program by supplying decent, safe and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV Program. [24 CFR §982.4(b)] The term "owner" includes a principal or other interested party [24 CFR §982.453; 24 CFR §982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The Chapter is organized in two parts:

> Part I: owners in the HCV program. This part discusses the role of an owner in the HCV program and highlights key owner rights and responsibilities.
>
> Part II: HAP Contracts. This part explains provisions of the HAP Contract and the relationship between the Housing Authority of the City of Long Beach (HACLB) and the owner, as expressed in the HAP Contract.

For detailed information about the HCV program, including Public Housing Agencies (PHA) policies in key areas, owners will need to refer to several other chapters in this Plan. Where appropriate, references are provided in this Chapter.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pages 2-4 to 2-6]

Recruitment

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHAB to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, the PHA must identify and recruit new owners to participate in the program.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

HACLB will conduct owner outreach to ensure that owners are familiar with the HCV program and its advantages. HACLB 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
- Contacting property owners and managers by phone or in-person
- Holding owner recruitment/information meetings
- Participating in community based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, PHAs must also provide the kind of customer service that will encourage participating owners to remain active in the program.

PHA Policy

All HACLB 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.

HACLB will provide new owners with an orientation session.

HACLB may give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated HACLB contact person;
- Coordinating inspection and leasing activities between HACLB, the owner and the family;
- Initiating telephone contact with the owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD Housing Quality Standards; and
- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis and as resources permit.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires PHAs to aid families in their housing search by providing the family with a list of property owners or other parties known to the PHA who may be willing to lease a unit to the family or to help the family find a unit. Although PHAs cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit. [24 CFR §982.301(b)(11)]

> PHA Policy
> Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit may notify HACLB. HACLB may provide this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See Chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must complete a Form HUD-52517 Request For Tenancy Approval (RFTA), which constitutes the family's request for assistance in the specified unit and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the housing unit. Also, submitted with the RFTA is a copy of the owner's proposed lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program. [24 CFR §982.306] Some owners are precluded from participating in the program or from renting to a particular family, either because of their past history with this or another federal housing program or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program. [24 CFR §982.305(a) and 24 CFR §5.508] Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the unit. (see Chapter 9)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. [24 CFR §982.305(a)] The PHA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the housing unit continues to meet HQS requirements. See Chapter 8 for a discussion of Housing Quality Standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

PHAs must determine that the cost of the housing unit is reasonable. [24 CFR §982.305(a)] The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. (see Chapter 8 for policies on rent reasonableness, rent comparability and the rent reasonableness determination process.)

At initial lease-up of a unit, the PHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income. [24 CFR §982.305(a) and 24 CFR §5.508] (see Chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.)

The lease must comply with all program requirements. [24 CFR §982.308] Owners are encouraged to use their standard lease when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See Chapter 9 for a discussion of the lease and Tenancy Addendum, including lease terms and provisions. The PHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP Contract format is prescribed by HUD. See Chapter 9 for a discussion of the HAP Contract execution process. Specific HAP Contract provisions and responsibilities are discussed in Chapter 13, Part II.

13-I.C. OWNER RESPONSIBILITIES [24 CFR §982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease;
- Performing all management and rental functions for the assisted unit, including selecting a Voucher-holder to lease the housing unit and deciding if the family is suitable for tenancy of the housing unit;
- Maintaining the housing unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance;
- Complying with equal opportunity requirements;
- Preparing and furnishing to the PHA information required under the HAP Contract;
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the Housing Assistance Payment from the PHA) and any charges for unit damage by the family;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Enforcing tenant obligations under the lease;
- Paying for utilities and services (unless paid by the family under the lease);
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203];
- Complying with the Violence Against Women Reauthorization Act's Final Rule: Violence Against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating tenancy of an HCV family (24 CFR, Subtitle A, Part 5, Subpart L; 24 CFR §982.310(h)(4); and 24 CFR §982.452(b)(1)).

13-I.D. OWNER QUALIFICATIONS [24 CFR §982.306(e)]
The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of instances when PHAs may deny approval of an assisted tenancy based on past owner behavior, conflict of interest or other owner-related issues. No owner has a right to participate in the HCV program.

Owners Barred from Participation [24 CFR §982.306(a) and (b)]
PHAs must not approve the assisted tenancy if the PHA is informed that the owner is debarred, suspended or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA to not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements or if such an action is pending.

Leasing to Relatives [24 CFR §982.306(d) and HCV GB, page 11-2]
PHAs must not approve an RFTA if the owner is the parent, child, grandparent, grandchild, sister or brother of any member of the family. The PHA may make an exception as a Reasonable Accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, however, any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR §982.161 and HCV GB, Chapter 8, page 8-19]
PHAs must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner);
- Any employee of the PHA or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body or State or local legislator, who exercises functions or responsibilities with respect to the programs;
- Any member of the Congress of the United States.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include: [HCV GB, pages 11-2 thru 3]

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP Contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or HCV assistance for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

When the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP Contract until HUD has made a decision on the waiver request.

PHA Policy

In considering whether to request a conflict of interest waiver from HUD, HACLB will consider:

- the reasons for waiving the requirement;
- consistency with state and local laws;
- the existence of alternative housing available to families;
- the individual circumstances of a particular family;
- the specific duties of individuals whose positions present a possible conflict of interest;
- the nature of any financial investment in the property and plans for disclosure/divestiture; and
- the possible appearance of impropriety.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR §982.306(c)]

HUD regulations permit PHAs, at the PHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP Contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP Contract for those units. [HCV GB, page 11-4]

PHA Policy

HACLB may refuse to approve a request for tenancy, if HACLB becomes aware that any of the following are true:

- The owner has violated obligations under a HAP Contract under Section 8 of the United States Housing Act of 1937 (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 HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents or employees of HACLB or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity; or
- The owner has a history or practice of renting units that fail to meet state or local housing codes.

In considering whether to disapprove owners for any of the discretionary reasons listed above, HACLB will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, HACLB may, on a case-by-case basis, choose to approve an owner.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Disapproval of Owners/Participation Restrictions

Each violation merits the full penalty for each violation. For example, if an Owner collects excess rent from two Families, the restriction is four years. If the violation can be cured and circumstances justify leniency, HACLB issues the Owner an oral and written warning.

Breach	Penalty
Unapproved charges for services or amenities.	1 year
Permitted an unauthorized occupant.	1 year
Non-compliant eviction - Second Violation.	1 year
Falsification of rent comparable for a housing unit in same building.	1 year
Unapproved agreements with onerous or prohibited provisions.	1 year
Collected excess rent.	2 years
Collected HAP for a housing unit not occupied by participant.	2 years
Violation of tenant rights/issuance of false eviction notices	2 years
Engaged in drug-trafficking	5 years
Three or more abatements over a twelve-month period or during one HAP Contract term for serious HQS deficiencies	5 years
Failure to provide Owner-supplied utilities or services.	5 years
Fraudulent Claim.	5 years
Discrimination in provision of services or violation of Fair Housing rules.	10 years
Commission of fraud, bribery or any other corrupt or criminal act in connection with a federal housing program.	10 years
HUD debarment/suspension	Restricted Until Reinstated

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Legal Ownership of Unit
The following represents PHA Policy on legal ownership of a dwelling unit to be assisted under the HCV program.

> PHA Policy
> HACLB 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).

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]
The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status or disability, in connection with any actions or responsibilities under the HCV program and the HAP Contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP Contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II. HAP CONTRACTS

13-II.A. OVERVIEW
The HAP Contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP Contract, the PHA agrees to make Housing Assistance Payments to the owner on behalf of a specific family occupying a specific unit.

The HAP Contract is used for all HCV program tenancies except for assistance under the Section 8 Homeownership program and assistance to families that own a manufactured home and lease the space. See Chapter 15 for a discussion of any Special Housing types included in the PHA's HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP Contract. See Chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP Contract.

13-II.B. HAP CONTRACT CONTENTS
The HAP Contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641. The HAP Contract contains three parts.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Part A of the contract includes basic contract information about the name of the family, address of the contract unit, names of all household members, initial lease term, amount of initial monthly rent to owner, amount of initial Housing Assistance Payment, utilities and appliances to be supplied by owner and tenant, and the PHA and owner signatures. [HCV Guidebook, pp 11-10 and 11-11]

In general, the HAP Contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP Contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA Policy on the amount of security deposit an owner may collect is found in Chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP Contract that defines when the Housing Assistance Payment by the PHA is deemed received by the owner, e.g. upon mailing by the PHA or actual receipt by the owner.

> PHA Policy
> HACLB has not adopted a policy that defines when the Housing Assistance Payment is deemed received by the owner. Therefore, no modifications to the HAP Contract will be necessary.

Part B is the body of the HAP Contract describes program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP Contract are outlined elsewhere in this Plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities and Other Services
- Term of HAP Contract
- Information on Utilities and Appliances
- Rent to owner: Reasonable Rent
- PHA Payment to owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the HAP Contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP Contract and subject to the provisions of the HAP Contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP Contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment. HAP payments can be made only during the lease term and only while the family is residing in the housing unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the 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 the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum. [24 CFR §982.451(b)(4)] The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises. [24 CFR §982.510(c)] (see Chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease)

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. (see Chapter 16 for additional detail on owner reimbursement of HAP overpayments)

Owner Certification of Compliance [HAP Contract – Form HUD-52641]
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 the PHA, the owner certifies to compliance with the terms of the HAP Contract. This includes certification that:

- The owner is maintaining the housing unit and premises in accordance with HQS;
- The contract unit is leased to the tenant family;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- To the best of the owner's knowledge, the family resides in the housing 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.

Late HAP Payments [24 CFR §982.451(a)(5)]
The PHA 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 the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if: 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent. The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP Contract. [HCV GB, page 11-7]

Termination of HAP Payments [24 CFR §982.311(b)]
The PHA must continue making Housing Assistance Payments to the owner in accordance with the HAP Contract as long as the tenant continues to occupy the housing unit and the HAP Contract is not violated.

HAP payments terminate when the HAP Contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the housing unit, the PHA must continue to make Housing Assistance Payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

> PHA Policy
> The owner must inform HACLB when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.
> The owner must inform HACLB when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide HACLB with a copy of such judgment or determination.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, HACLB will continue to make HAP payments to the owner until the family actually moves from the housing unit or until the family is physically evicted from the housing unit, whichever is earlier. The owner must inform HACLB of the date when the family actually moves from the housing unit or the family is physically evicted from the housing unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR §982.453]
Any of the following actions by the owner constitutes a breach of the HAP Contract:

- If the owner violates any obligations under the HAP Contract including failure to maintain the housing unit in accordance with HQS;
- If the owner has violated any obligation under any other HAP Contract under the HCV program;
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan;
- If the owner has engaged in drug-related criminal activity; and
- If the owner has committed any violent criminal activity.

If the PHA determines that a breach of the HAP Contract has occurred, it may exercise any of its rights and remedies under the HAP Contract.

The PHA's rights and remedies against the owner under the HAP Contract include recovery of any HAP overpayment, suspension of Housing Assistance Payments, abatement or reduction of the Housing Assistance Payment, termination of the payment or termination the HAP Contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of the determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in Housing Assistance Payments or the termination of the HAP Contract.

PHA Policy
Before HACLB invokes a remedy against an owner, HACLB will evaluate all information and documents available to determine if the contract has been breached.

If relevant, HACLB may conduct an audit of the owner's records pertaining to the tenancy or unit.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If it is determined that the owner has breached the contract, HACLB will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP Contract violations.

13-II.E. HAP CONTRACT TERM and TERMINATIONS [HCV GB, Chapter 11, page 11-4 and Chapter 5, page 5-3]

The term of the HAP Contract runs concurrently with the term of the lease [24 CFR §982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP Contract and the Housing Assistance Payments made under the HAP Contract terminate if:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP Contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the Housing Assistance Payment for the month when the family moves out of the housing unit;
- 180 calendar days have elapsed since the PHA made the last Housing Assistance Payment to the owner;
- The family is absent from the housing unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP Contract.

PHA Policy

HACLB may elect to terminate the HAP Contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR §982.454];
The unit does not meet HQS size requirements due to change in family composition [24 CFR §5.403] – see Chapter 8;
The unit does not meet HQS [24 CFR §982.404] – see Chapter 8;
The family breaks up [HUD Form 52641] – see Chapter 3;
The owner breaches the HAP Contract [24 CFR §982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP Contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP Contract is terminated, no further HAP payments may be made under that contract. [HCV Guidebook, Chapter 15, page 15-4]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

In all cases, 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. The owner is not entitled to any Housing Assistance Payment (HAP) after this period and must return any HAP received to the PHA.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP Contract for the assisted unit terminates. A new HAP Contract would be required. [HCV GB, page 11-17]

When the family moves from an assisted unit into a new unit, the term of the HAP Contract for the new unit may begin in the same month in which the family moves out of the old unit. This is not considered a duplicative subsidy. [HCV GB, page 8-22]

13-II.F. OWNERSHIP CHANGES/ASSIGNMENT OF HAP CONTRACT

The HAP Contract [Form HUD-52641] cannot be assigned to a new owner, without prior written consent from the PHA. An owner under a HAP Contract must notify the PHA in writing prior to a change in legal ownership of a housing unit.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP Contract. The agreement between the new owner and the former owner must be in writing and in a form acceptable to the PHA. The new owner must provide the PHA with a copy of the executed agreement.

PHA Policy

Assignment of the HAP Contract will be approved only if the new owner is qualified to become an owner under the HCV program, according to 13-I.D.

HACLB must receive a signed, written request from the existing owner stating the name and address of the new owner and the effective date of the ownership change. The new owner must provide a written certification to HACLB that includes:

- A copy of the escrow statement or document showing the transfer of title;
- IRS Form W-9 Request for Taxpayer Identification Number and Certification;
- The effective date of the HAP Contract assignment;
- A written agreement to comply with the terms of the HAP Contract; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP Contract or fails to provide the necessary documents, HACLB will terminate the HAP Contract with the old owner. If the new owner wants to offer the family a new lease and the family elects to stay with continued assistance, HACLB will process a new HAP Contract, in accordance with the policies in Chapter 9.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The Housing Authority of the City of Long Beach (HACLB) is committed to ensuring that subsidy funds are spent in accordance with U.S. Department of Housing and Urban Development (HUD) requirements.

This chapter covers HUD and HACLB policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting and Investigating Errors and Program Abuse. This part presents HACLB policies related to preventing, detecting and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures HACLB must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING and INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide Public Housing Agencies (PHAs) with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system in its entirety, in accordance with HUD administrative guidance. [24 CFR §5.233]

PHAs are further required to:

- Provide applicants and participants with Form HUD-52675, "Debts Owed to Public Housing Agencies and Terminations"; and
- Require all adult household members to acknowledge receipt of Form HUD-52675 by signing a copy of the form for retention in the family file.

PHA Policy

To ensure that the HCV program is administered effectively and according to the highest ethical and legal standards, HACLB will employ a variety of techniques to ensure that both errors and intentional program abuse are rare. The following are examples of steps HACLB will take to prevent errors and program abuse:

- HACLB will discuss program compliance and integrity issues during the Voucher briefing sessions described in Chapter 5.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- HACLB will provide each applicant and participant with a copy of "Is Fraud Worth It?" (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

- HACLB will provide each applicant and participant with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, HACLB will require the Head of each household to acknowledge receipt of the guide by signing the briefing packet checklist for retention in the family file.

- HACLB will place a warning statement about the penalties for fraud, as described in Title 18 U.S.C. §1001 and §1010, on key HACLB forms and form letters that request information from a family or owner.

- HACLB will offer first-time owners (or their agents) the opportunity to participate in a briefing session on HAP Contract requirements.

- Each HACLB employee will be provided with necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires PHAs to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance. [24 CFR Part 985] (see Chapter 16 for additional information about SEMAP requirements).

PHA Policy

In addition to the SEMAP quality control requirements, HACLB will employ a variety of methods to detect errors and program abuse.

HACLB will use available sources of up-front income verification, including HUD's EIV system, to compare with family-provided information.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information. HACLB will compare family-reported income and expenditures to detect possible unreported income.

Independent 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. In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

PHA Policy
HACLB will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of HACLB's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

PHA Policy
HACLB will encourage staff, program participants and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

PHA Policy
HACLB will review all referrals, specific allegations, complaints and tips from any source including other agencies, companies and individuals, to determine if a report warrants investigation. The reported information 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.

HACLB will also investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR §982.516]

PHAs may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

PHA Policy
HACLB will base evaluations on a preponderance of the evidence collected during an investigation.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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

For each investigation HACLB will determine:
(1) Whether an error or program abuse has occurred;
(2) Whether any amount of money is owed HACLB; and
(3) What corrective measures or penalties will be assessed.

Consideration of Remedies
All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

PHA Policy
In the case of family-caused errors or program abuse, HACLB will take into consideration:
(1) The seriousness of the offense and the extent of participation or culpability of individual family members;
(2) Any special circumstances surrounding the case;
(3) Any mitigating circumstances related to the disability of a family member;
(4) The effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, HACLB will take into consideration:
(1) The seriousness of the offense;
(2) The length of time since the violation has occurred; and
(3) The effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

PHA Policy
HACLB will inform the relevant party in writing of the findings and remedies within ten (10) business days of the conclusion of the investigation. The notice will include:
(1) A description of the error or program abuse;
(2) The basis on which HACLB determined the error or program abuses;
(3) The remedies to be employed; and
(4) The family's right to appeal the results through the Informal Review or hearing process, if applicable (see Chapter 16).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy underpayment or overpayment includes an incorrect:
(1) Housing Assistance Payment to the owner;
(2) Family share established for the family; and
(3) Utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share and any utility reimbursement prospectively.

> PHA Policy
>
> Increases in the family share will be implemented only after the family has received 30 days' notice.
>
> Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this Plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by the family would generally be the result of incorrect reporting of family composition, income, assets or expenses, but also includes instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

Family Reimbursement to the PHA [HCV GB, pages 22-12 to 22-13]

> PHA Policy
>
> In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. HACLB may, but is not required to, offer the family a Repayment Agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, HACLB will terminate the family's assistance, in accordance with the policies in Chapter 12.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Reimbursement to Family [HCV GB, page 22-12]

PHA Policy
HACLB will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions
An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA. [Title 18 U.S.C. §1001]
- Commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program. [24 CFR §982.552(c)(iv)]

PHA Policy
Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by HACLB for rent, security deposit and additional services;
- Offering bribes or illegal gratuities to HACLB Board of Commissioners, employees, contractors or other HACLB 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 HACLB 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); and/or
- Admission of program abuse by an adult family member.

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse
In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the housing unit. (see policies in Chapter 3 - for applicants and Chapter 12 - for participants)
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution, as described in section 14-II.E.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing and maintaining a unit, e.g. HQS compliance, fair housing, are addressed in the appropriate chapters of this Plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g. the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate Housing Assistance Payments for the same unit in the same month or after a family no longer resides in the housing unit.

Owner Reimbursement to the PHA [HCV GB, page 22-13]

In all cases of overpayment of subsidy caused by the owner, the owner must repay the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding Housing Assistance Payments due for subsequent months or if the debt is large, the PHA may allow the owner to pay in installments over a period of time.

> PHA Policy
>
> In cases when the owner has received excess subsidy, HACLB will require the owner to repay the amount owed in accordance with Section 16-IV.B.

Prohibited owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA. [Title 18 U.S.C. §1001]
- Commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program [24 CFR §982.453(a)(3)], including:

> PHA Policy
>
> Any of the following will be considered evidence of owner program abuse:
>
> - Charging the family rent above or below the amount specified by the PHA;
> - 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 housing unit;
> - Knowingly accepting incorrect or excess Housing Assistance Payments
> - Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors or other PHA representatives;
> - Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA; and
> - Residing in the housing unit with an assisted family.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Remedies and Penalties
When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess Housing Assistance Payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP Contract. (see Chapter 13)
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution, as described in section 14-II.E.

14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this Plan. This section specifically addresses actions of PHA staff members that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA's personnel policy.

PHA-caused incorrect subsidy determinations include:
(1) Failing to correctly apply HCV rules regarding family composition, income, assets and expenses;
(2) Assigning the incorrect Voucher size to a family; and
(3) Errors in calculation.

Repayment to the PHA
Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff. [HCV GB 22-12]

PHA Reimbursement to Family or Owner
PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's Administrative Fee Reserves. [HCV GB 22-12]

Prohibited Activities

PHA Policy
The following will be considered evidence of program abuse by HACLB 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 HACLB;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Disclosing confidential or proprietary information to outside parties;
- Gaining profit as a result of insider knowledge of HACLB activities, policies or practices;
- Misappropriating or misusing HCV funds;
- Destroying, concealing, removing or inappropriately using any records related to the HCV program; and
- Committing any other corrupt or criminal act in connection with any federal housing program.

14-II.E. CRIMINAL PROSECUTION

PHA Policy

When HACLB determines that program abuse by an owner, family or HACLB staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, HACLB will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order or a Repayment Agreement. [24 CFR §982.163]

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative Repayment Agreement; or

- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees and agency collection fees.

The family must be afforded the opportunity for an Informal Hearing in accordance with requirements in [24 CFR §982.555].

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 15

SPECIAL HOUSING TYPES
[24 CFR §982, Subpart M]

INTRODUCTION

Public Housing Agencies (PHAs) may permit a family to use any of the Special Housing types discussed in this chapter. However, PHAs are not required to permit program participants to use these housing types, except that PHAs must permit use of any Special Housing type if needed as a Reasonable Accommodation for a person with a disability. PHAs also may limit the number of families who receive Housing Choice Voucher (HCV) program assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for Special Housing types.

> PHA Policy
> Families will not be permitted to use Single Room Occupancy, Congregate Housing, Group Homes, Shared Housing or Cooperative Housing, unless use is needed as a Reasonable Accommodation so that the program is readily accessible to a person with disabilities.
>
> Targeted funding programs may use some of the above housing types outside of this policy.

Special housing types include Single Room Occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space and Homeownership. [24 CFR §982.601]

This chapter consists of the following eight parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to Special Housing types.

Part I: Single Room Occupancy (SRO)
Part II: Congregate Housing
Part III: Group Homes
Part IV: Shared Housing
Part V: Cooperative Housing
Part VI: Manufactured Homes (including manufactured home space rental)
Part VII: Homeownership
Part VIII: Veterans Affairs Supportive Housing (VASH)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART I: SINGLE ROOM OCCUPANCY [24 CFR §§982.602 thru 982.605]

15-I.A. OVERVIEW

A Single Room Occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant and 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; however, 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 HAP Contract form is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE and HAP CALCULATION

The Payment Standard for SRO housing is 75 percent of HACLB's 0-bedroom Payment Standard amount on the Payment Standard schedule. The Utility Allowance for an assisted person residing in SRO housing is 75 percent of the 0-bedroom Utility Allowance. The HAP for an assisted occupant in an SRO facility is the lower of the SRO Payment Standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements (Chapter 8) apply to SRO housing except as modified below.

- *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the housing unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety*: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas and any other areas specified in local fire, building or safety codes. SROs must also have hard-wired smoke detectors and any other fire and safety equipment required by state or local law.
- Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply. [24 CFR §982.605]
- *Sanitary Facilities*: At least one flush toilet that can be used in privacy, a lavatory basin and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway and may not be located more than one floor above or below the SRO unit. Sanitary facilities must not be located below grade unless the SRO units are located on that level.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- *Space and Security*: An SRO unit must contain at least 110 square feet of floor space and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.
- Because no children live in SRO housing, the Housing Quality Standards applicable to lead-based paint do not apply.

PART II: CONGREGATE HOUSING [24 CFR §982.606 through 24 CFR §5.609]

15-II.A. OVERVIEW

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 the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a Reasonable Accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP Contract are executed for each assisted family and the standard form of the HAP Contract is used.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE and HAP CALCULATION

The Payment Standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the housing unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the Payment Standard for a 0-bedroom unit. If the housing unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the 1-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 housing unit minus the TTP.

The gross rent for the housing 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements, as described in Chapter 8, apply to congregate housing except for the requirements stated below. The Housing Quality Standards applicable to lead-based paint do not apply.

Congregate housing must have:

(1) a refrigerator of appropriate size in the private living area of each resident;
(2) a central kitchen and dining facilities located within the premises and accessible to the residents; and
(3) food service for the residents, that is not provided by the residents themselves.

PART III: GROUP HOME [24 CFR §§982.610-982.614 and HCV GB, page 7-4]

15-III.A. OVERVIEW

A group home is a state-licensed 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 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 the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a Reasonable Accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP Contract is executed for each assisted family and the standard HCV HAP Contract is used.

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE and HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on the PHA's Subsidy Standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes, except for the requirements stated below.

- *Sanitary Facilities*: the unit must have at least one bathroom, with a flush toilet that can be used in privacy, and a fixed basin and shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service*: the unit must contain a kitchen and dining area with adequate space to store, prepare and serve food. The facilities for food preparation may be private or may be shared. The kitchen must contain a range or stove with oven, a refrigerator and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security*: Group homes must contain at least one bedroom of appropriate size for every two people and a living room, kitchen, dining area, bathroom and other appropriate social, recreational or community space that may be shared with other residents.
- *Structure and Material*: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- The Housing Quality Standards applicable to lead-based paint do not apply.
- *Site and Neighborhood*: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety and general welfare of the residents and should not be subject to serious adverse conditions, such as:

  - Dangerous walks or steps
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups
  - Sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash
  - Vermin or rodent infestation and
  - Fire hazards.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART IV: SHARED HOUSING [24 CFR §§982.615-982.618]

15-IV.A. OVERVIEW

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 housing unit and separate private space for each assisted family. An assisted family may share a unit with other assisted persons under the HCV program or with unassisted persons. The owner of a shared housing unit may reside in the housing unit; however, housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a Reasonable Accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP Contract are executed for each assisted family, and the standard HAP Contract form is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The Payment Standard for a family in shared housing is the lower of the Payment Standard 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 housing 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, the PHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

PHAs may not give approval to reside in shared housing, unless the entire unit, including the portion of the housing unit available for use by the assisted family under the lease, meets Housing Quality Standards.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom and food preparation and refuse disposal facilities.
- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

PART V: COOPERATIVE HOUSING [24 CFR §982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV Homeownership option or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged "rent" a cooperative member is charged a "carrying charge."

When providing HCV assistance in cooperative housing, the standard form of the HAP Contract is used.

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The Payment Standard and Utility Allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the Payment Standard minus the TTP or the monthly carrying charge for the housing 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.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART VI: MANUFACTURED HOMES [24 CFR §§982.620-982.624]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis and designed for use as a principal residence. HCV-assisted families may occupy manufactured homes in one of two different ways:

(1) PHAs must permit families to rent a manufactured home already installed on a space. In this instance program rules are the same as when a family rents any other housing, except for additional HQS requirements, as provided in 15-VI.D.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance for the space rent. PHAs may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this Special Housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

Payment Standards

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, when approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. PHAs may establish a Payment Standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance

PHAs must establish Utility Allowances for manufactured home space rents. 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Space Rent
The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner and the Utility Allowance for tenant-paid utilities.

Housing Assistance Payment (HAP)
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 (gross) manufactured home space rent minus the TTP.

Rent Reasonableness
Initially and annually thereafter PHAs must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. PHAs must consider the location and size of the space and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, 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.

15-VI.D. HOUSING QUALITY STANDARDS
Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this Plan. In addition, the following requirement applies:

Manufactured Home Tie-Down
A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the housing unit to appropriate ground anchors to resist overturning and sliding.

PART VII: HOMEOWNERSHIP [24 CFR §§982.625-982.643]

15-VII.A. OVERVIEW [24 CFR §982.625]

The Homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. PHAs must have the capacity to operate a successful HCV Homeownership program as defined by the regulations.

> PHA Policy
> HACLB requires that financing to purchase a home under the Section 8 Homeownership program complies with secondary mortgage market underwriting requirements or complies with generally accepted private sector underwriting standards

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

There are two forms of Homeownership assistance PHAs may offer under this option: monthly Homeownership assistance payments or a single down payment assistance grant. PHAs may choose to offer either or both forms of Homeownership assistance or choose not to offer either. If a PHA offers both forms of assistance, a family must choose which form of assistance to receive.

PHA Policy
HACLB will offer the monthly Homeownership assistance payments to qualified families.

PHAs must offer either form of Homeownership assistance if needed as a Reasonable Accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a Homeownership program as a Reasonable Accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer Homeownership assistance as a Reasonable Accommodation in cases when the PHA has otherwise opted not to implement a Homeownership program.

PHAs must approve a live-in aide if needed as a Reasonable Accommodation so that the program is readily accessible to and usable by persons with disabilities.

15-VII.B FAMILY ELIGIBILITY [24 CFR §982.627]
The family must meet all of the requirements listed below before the commencement of Homeownership assistance. PHAs may also establish additional initial requirements as long as the requirements are described in the PHA's Administrative Plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2,000, based on the income of adult family members who will own the home. PHAs may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if the family can demonstrate pre-qualification or pre-approval for financing that is sufficient to purchase an eligible unit.

PHA Policy
HACLB will not establish a higher minimum income standard for disabled and/or non-disabled families.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- 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 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.

  PHA Policy
  families will be considered "continuously employed" if the break in employment does not exceed four months.

  HACLB 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 it is determined 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).

  PHA Policy
  HACLB will impose additional eligibility requirements. To be eligible to participate in the Homeownership option, families must meet the following criteria:

  - The family has had no family-caused violations of HUD's Housing Quality standards within the past year;
  - The family is not within the initial one-year period of a HAP Contract;
  - The family must not owe any PHA or must be current with a Repayment Agreement to any PHA; and
  - The family has not committed any serious or repeated violations of the lease in an assisted unit within the past year.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

15-VII.C. SELECTION OF FAMILIES [24 CFR §982.626]
Unless otherwise provided under the Homeownership option, the PHA may limit Homeownership assistance to families or purposes defined by the PHA and may prescribe additional requirements for commencement of Homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA's Administrative Plan.

If the PHA limits the number of families that may participate in the Homeownership option, the PHA must establish a system by which to select families to participate.

PHA Policy
HACLB will not limit the number of families that may participate in the Homeownership option. All families must meet eligibility requirements as defined in Section 15-VII.B. of this Plan.

15-VII.D. ELIGIBLE UNITS [24 CFR §5.628]
In order for a unit to be eligible, the PHA must determine that the housing 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 under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- 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.
- For PHA-owned units all of the following conditions must be satisfied:
  - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
  - The unit is not ineligible housing;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- The PHA obtains the services of an independent agency to inspect the housing unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the housing unit if the PHA has been informed that the seller is debarred, suspended or subject to a limited denial of participation.

15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR §982.629]

It is the family's responsibility to find a home that meets the criteria for Voucher Homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a Voucher to lease a unit or place the family's name on the waiting list for a Voucher.

PHA Policy

The family will be allowed 120 days to identify a unit and submit a sales contract to HACLB for review. The family will be allowed an additional 120 days to close on the home. HACLB may grant extensions to either of these periods for good cause. The length of the extension(s) will be determined on a case-by-case, but in no case will an extension exceed a total of 125 days. The maximum amount of time a family will be given to locate and complete the purchase of a home under the Homeownership option is 365 days.

During these periods, the family will continue to receive HCV rental assistance, in accordance with any applicable lease and HAP Contract until the family vacates the rental unit for the purchased home.

All requests for extensions must be submitted in writing to HACLB prior to the expiration of the period for which the extension is being requested. HACLB will approve or disapprove the extension request within ten (10) business days. The family will be notified of HACLB's decision in writing.

The family will be required to report their progress on locating and purchasing a home to HACLB every 30 days until the home is purchased.

If the family cannot complete the purchase of a unit within the maximum required time frame and is not receiving rental assistance under a HAP Contract at the time the search and purchase time period expires, the family will be issued a Voucher to lease a unit.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR §5.630]

Before commencement of Homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance Homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain Homeownership financing and loan pre-approvals, including a description of types of financing that may be available and the pros and cons of different types of financing;
- How to find a home, including information about Homeownership opportunities, schools and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including lending and local enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) (RESPA), state and Federal truth-in-lending laws and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of Homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

> PHA Policy
> If required by HACLB, families must attend and complete post-purchase ongoing Homeownership counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide homeownership counseling, the PHA should ensure that the counseling program is consistent with counseling provided under HUD's Housing Counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE and PHA DISAPPROVAL OF SELLER [24 CFR §982.631]

Home Inspections

PHAs may not commence monthly Homeownership assistance payments or provide down payment assistance grants for a family until the PHA has inspected the housing unit and has determined that the housing unit passes HQS.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

An independent professional inspector selected by and paid for by the family must also inspect the housing 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.

PHAs may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the Homeownership option.

PHAs may disapprove a unit for assistance based on information in the independent inspector's report, even if the housing unit was found to comply with HQS.

PHA Policy

When the family locates a home for purchase and submits a copy of their purchase offer/contract, HACLB will conduct a Housing Quality Standards (HQS) inspection within ten (10) business days. Any items found not to meet HQS must be repaired before the housing unit can be determined eligible for the Homeownership program.

The family must hire an independent professional inspector, whose report must be submitted to HACLB for review. This inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society or a licensed engineer. The inspector may not be an HACLB employee.

HACLB will review the professional report in a timely fashion and, based on the presence of major physical problems, may disapprove the home purchase.

If HACLB disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

While the family is receiving Homeownership assistance, HACLB will conduct an HQS inspection every other year.

Contract of Sale

Before commencement of monthly Homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the housing unit to be acquired by the family.

The family must give the PHA a copy of the contract of sale that:

- Specifies the price and other terms of sale by the seller to the purchaser;
- Provides that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Provides that the purchaser is not obligated to purchase the housing unit unless the inspection is satisfactory to the purchaser;
- Provides that the purchaser is not obligated to pay for any necessary repairs; and
- Contains a certification from the seller that the seller has not been debarred, suspended or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller [24 CFR §982.306(c)]
PHAs may deny approval of a seller for the same reasons PHAs may disapprove an owner under the regular HCV program.

15-VII.H. FINANCING [24 CFR §982.632]
PHAs may establish requirements for financing purchase of a home under the Homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms and affordability of the debt.

The PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

Things to Consider
- If the purchase of the home is financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements.
- The PHA may establish requirements or other restrictions concerning debt secured by the home.
- The PHA may review lender qualifications and loan terms before authorizing Homeownership assistance. The PHA may disapprove proposed financing, refinancing or other debt if the PHA determines that: the debt is unaffordable or the lender or the loan terms do not meet PHA qualifications. In making this determination, the PHA may take into account other family expenses, such as, child care, unreimbursed medical expenses, homeownership expenses and other family expenses as determined by the PHA.
- All PHA financing or affordability requirements must be described in the PHA's Administrative Plan.

PHA Policy:
As a check against predatory lending, HACLB will review the financing of each purchase transaction, including estimated closing costs. HACLB will review the loans for features, such as balloon payments, adjustable rate mortgages and unusually high interest rates, all of which are prohibited. HACLB will also not approve "seller financing" or "owner-held" mortgages. Beyond these basic criteria, HACLB will rely on the lenders to determine that the loan will be affordable to program participants.

HACLB will approve a family's request to utilize their Family Self-Sufficiency escrow account for down payment and/or closing costs when purchasing a unit under the HCV Homeownership option.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS - FAMILY OBLIGATIONS [24 CFR §982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue Homeownership assistance after the month when the family moves out. The family or lender is not required to refund Homeownership assistance to the PHA for the month when the family moves out.

Before commencement of Homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the Homeownership option.

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-i).
- The family must supply information to the PHA or HUD as specified in 24 CFR §982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home or Homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- 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-g) and (j).

  PHA Policy

  Any HQS failed items noted on any inspection after the initial inspection will have to be corrected by the family within thirty (30) calendar days as a condition of continued assistance.

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR §982.634]

Except in the case of a family that qualifies as an elderly or disabled family, families 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the housing 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 housing 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 for Homeownership assistance).

If the family received such assistance for different homes or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR §982.635]

The monthly Homeownership assistance payment is the lower of: the Payment Standard minus the Total Tenant Payment (TTP) or the monthly Homeownership expenses minus the Total Tenant Payment.

In determining the amount of the Homeownership assistance payment, the PHA will use the same Payment Standard schedule and Subsidy Standards as those described elsewhere in this Plan for the HCV program.

PHAs may pay Homeownership assistance payments directly to the family or, at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA will pay the excess to the family.

> PHA Policy
> HACLB's Housing Assistance Payment will be paid directly to the lender, unless the mortgage company refuses to accept payments from more than one source. In such case, HACLB's Housing Assistance Payment will be paid directly to the family. If the assistance payment exceeds the amount due to the lender, HACLB will pay the excess to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last Homeownership assistance payment on behalf of the family. However, the PHA may grant relief from this requirement in those cases when automatic termination would result in extreme hardship for the family.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

In order for HACLB to consider granting relief from the requirement to automatically terminate Homeownership assistance 180 days following HACLB's last Housing Assistance Payment, the family must submit a request to HACLB at least 30 days prior to the date of automatic termination.

The request must include an explanation of the circumstances that will cause an extreme hardship for the family (e.g. the imminent loss of income or employment) as well as documentation supporting the request. HACLB will determine on a case-by-case basis whether to grant relief from the requirement and for what period of time. In no case will HACLB postpone termination beyond an additional 90 days.

PHAs must adopt policies for determining the amount of Homeownership expenses to be allowed by the PHA in accordance with HUD requirements. Homeownership expenses (not including cooperatives) only include amounts 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 PHA's allowance for maintenance expenses;
- The PHA's allowance for costs of major repairs and replacements;
- The PHA's Utility Allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as Homeownership expenses is needed as a Reasonable Accommodation so that the Homeownership option is readily accessible to and usable by such person;
- Land lease payments when a family does not own fee title to the real property on which the home is located; [see 24 CFR §5.628(b)]
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

PHA Policy

HACLB will allow the following Homeownership expenses:

Monthly Homeownership payment. Principal and interest on initial mortgage debt, taxes, insurance and mortgage insurance premium, if applies.

Utility Allowance. HACLB's Utility Allowance for the housing unit, based on the current HCV Utility Allowance Schedule.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Monthly maintenance allowance.
The monthly maintenance allowance will be the annual maintenance allowance, divided by twelve. The annual maintenance allowance will be set at .1 percent of purchase price of the home.

Monthly major repair/replacement allowance.
The monthly major repair/replacement allowance will be the annual major repair/replacement allowance divided by 12. The annual major repair/replacement allowance will be set as a percentage of the purchase price of the home, based on the age of the home at the time of purchase and/or reexamination.

Age of Home	**% of purchase price allowed**
New to 20 years	0.25
21 to 50 years	0.50
51 years plus	1.00

Monthly co-op/condominium assessments.
If applicable, the monthly amount of co-op or condominium association operation and maintenance assessments.

Monthly principal and interest on debt for improvements.
Principal and interest for major home repair, replacements or improvements, if applicable.

Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA's allowance for maintenance expenses;
- The PHA's allowance for costs of major repairs and replacements;
- The PHA's Utility Allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as Homeownership expenses is needed as a Reasonable Accommodation.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

15-VII.L. PORTABILITY [24 CFR §982.636, 982.637, 24 CFR §982.353(b) thru (c) and 24 CFR §982.553]

Subject to restrictions on portability included in HUD regulations and the PHA policies, a family may exercise portability if the Receiving PHA is administering a Voucher Homeownership program and accepting new Homeownership families. The Receiving PHA may absorb the family into their HCV program or bill the Initial PHA.

The family must attend briefing and counseling sessions required by the Receiving PHA. The Receiving PHA will determine whether the financing for and the physical condition of the housing 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.

15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR §982.637]

A family receiving Homeownership assistance may move with continued tenant-based assistance. The family may move with Voucher rental assistance or with Voucher Homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

PHAs may deny permission to move to a new unit with continued Voucher assistance as follows:

- Lack of funding to provide continued assistance.
- At any time, the PHA may deny permission to move with continued rental or Homeownership assistance in accordance with 24 CFR §982.638, regarding denial or termination of assistance.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

PHAs 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.

PHA Policy

For families participating in the Homeownership option, requests to move will be approved and/or denied in accordance with HACLB policies in Chapter 10.

HACLB will not require additional counseling of any families who move with continued assistance.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR §982.638]

At any time, the PHA may deny or terminate Homeownership assistance in accordance with HCV program requirements in 24 CFR §982.552 – Grounds for denial or termination of assistance or 24 CFR §982.553 – Denial of admission and termination of assistance for criminals and alcohol abusers.

PHAs may also deny or terminate assistance for violation of participant obligations described in 24 CFR §982.551 or 982.633 and in accordance with their own policy.

PHAs 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.

PHA Policy

HACLB will terminate a family's Homeownership assistance if the family violates any of the homeowner obligations listed in Section 1, as well as for any of the reasons listed in Section 2 of Form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher program.

In making a decision to terminate Homeownership assistance, HACLB will consider alternatives and other factors, as described in Section 12-II.C-E. Upon consideration of such alternatives and factors, HACLB may, on a case-by-case basis, choose not to terminate assistance.

Termination notices will be sent in accordance with the requirements and policies set forth in Section 12-II.F.

PART VIII: VETERANS AFFAIRS SUPPORTIVE HOUSING [Federal Register Docket No. FR-5596-N-02]

15-VIII.A. OVERVIEW

Since Fiscal Year (FY) 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans authorized by Section 8(o)(19) of the United States Housing Act of 1937 (42 U.S.C. §§1437f(o)(19)). The initiative, known as the HUD-VASH program, combines HCV rental assistance for homeless veterans with case management and clinical services provided by VA community medical centers.

Assistance made available for this program must, however, continue to remain available for homeless veterans upon turnover.

Unless expressly herein, all regulatory requirements and HUD directives regarding the HCV tenant-based program are applicable to HUD–VASH Vouchers, including the use of all HUD-required contracts and other forms.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

15-VIII.B Non-discrimination and Reasonable Accommodation

The HUD–VASH program is administered in accordance with applicable Fair Housing requirements. These include applicable authorities under 24 CFR §5.105(a) and 24 CFR §982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and the Age Discrimination Act. These requirements prohibit discrimination on the basis of race, color, religion, sex, familial status, national origin, age or disability.

When HUD–VASH recipients include veterans with disabilities or family members with disabilities, HUD's Reasonable Accommodation standards requirements apply. (see Chapter 2 for Reasonable Accommodation and Non-discrimination policies)

15-VIII.C Family Eligibility and Selection

HUD–VASH-eligible families are homeless veterans and their families. VA HUD–VASH case managers will refer HUD–VASH-eligible families to the PHA for the issuance of Vouchers. The PHA must accept referrals from their VA partner. Written documentation of these referrals must be maintained in the tenant file by the PHA. Therefore, the PHA will not have the authority to maintain a waiting list or apply local preferences for HUD–VASH Vouchers.

Accordingly, regulations applying to preferences are waived to provide for the effective administration of the HUD-VASH program. This includes 24 CFR §982.202, §982.204 and 982.207, relating to applicant selection from the waiting list and local preferences. regarding special admissions, cross-listing of the waiting list and opening and closing the waiting list do not apply to the HUD–VASH program. [24 CFR §982.203, §982.205 and §982.206]

VA HUD–VASH case managers will screen all families in accordance with VA screening criteria. By agreeing to administer the HUD–VASH program, the PHA relinquishes the authority to determine the eligibility of families, in accordance with regular HCV program rules and PHA policies.

Specifically, under the HUD–VASH program, PHAs do not have the authority to screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR §982.552 (broad denial for violations of HCV program requirements) and 24 CFR §982.553 (specific denial for criminals and alcohol abusers), with one exception: the PHA will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. However, unless the family member that is subject to lifetime registration under a state sex offender registration program is the homeless veteran (which would result in denial of admission for the family), the remaining family members may be served if the family agrees to remove the sex offender from their family composition.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

HACLB will serve the remaining family members if the family agrees to remove the sex offender from their family composition, unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran. In this case, the family will be denied admission.

15-VIII.D Income Eligibility

PHAs must determine income eligibility for HUD–VASH families, in accordance with 24 CFR §982.201.

Income-targeting requirements do not apply for HUD–VASH, in order to allow PHAs to effectively serve the eligible population specified in the various appropriations acts; that is, homeless veterans, who may be at a variety of income levels, including low-income. PHAs may, however, choose to include extremely low-income HUD–VASH families with income targeting numbers for the fiscal year in which the families are admitted.

PHA Policy

Extremely low-income HUD-VASH families will not be included with HACLB's income targeting numbers.

In conformance with normal program rules, the PHA may not deny admission to a family with zero income and must consider hardship circumstances before charging a minimum rent, in accordance with [24 CFR §5.630(b)].

15-VIII.E Initial Search Term of the Housing Choice Voucher

Recognizing the challenges that HUD–VASH participants may face with their housing search, HUD–VASH Vouchers must have an initial search term of at least 120 days. Therefore, 24 CFR §982.303(a), which states that the initial search term must be at least 60 days, shall not apply, since the initial term must be at least 120 days.

Any extensions, suspensions and progress reports will remain under the policies in the PHA's Administrative Plan and will apply after the minimum 120-day initial search term.

15-VIII.F Ineligible Housing

HUD–VASH families will be permitted to live on the grounds of a VA facility in units developed to house homeless veterans. Therefore, 24 CFR §982.352(a)(5), which prohibits units on the physical grounds of a medical, mental or similar public or private institution, is waived for that purpose only.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

15-VIII.G Initial Lease Term

Under the HCV program, Voucher participants must enter into an initial lease with the owner for one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice. To provide a greater range of housing opportunities for HUD–VASH Voucher holders, initial leases may be less than 12 months; therefore, 24 CFR §982.309(a)(2)(ii) is waived.

PHA Policy
HACLB will require the initial term of the lease to be one year.

15-VIII.H PRE-CONTRACT HQS

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing, in order to maintain a pool of eligible units. If a HUD–VASH family selects a unit that passed a HQS inspection (without intervening occupancy) within 45 days of the date of the Request For Tenancy Approval (Form HUD-52517), the housing unit may be approved, provided that it meets all other conditions under 24 CFR §982.305. However, the veteran must be free to select his/her unit and cannot be steered to these units.

PHA Policy
If common units are identified that veterans may be interested in leasing, HACLB may pre-inspect available units in order to maintain a pool of eligible units. HACLB will not steer veterans to these units.

15-VIII.I Adding Family Members

When adding a family member after the HUD–VASH family is admitted to the program, the rules of 24 CFR §982.551(h)(2) apply. Other than the birth, adoption or court-awarded custody of a child, the PHA must approve additional family members and may apply regular screening criteria in doing so.

In regards to verification of social security numbers (SSN) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual along with other identifying information of the individual, is acceptable in accordance with 24 CFR §5.216(g).

In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD–214) or the VA-verified Application for Health Benefits (10–10EZ) as verification of SSN and cannot require the veteran to provide a SSN card. These documents must also be accepted for proof-of-age purposes in lieu of birth certificates or other PHA-required documentation.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Please note that veterans are also issued photo identification cards by the VA. If such identification is required by the PHA, these cards must be accepted by the PHA in lieu of another type of government-issued photo identification. These cards may also be used to verify SSNs and date of birth.

PHA Policy
HACLB will accept photo identification cards issued by the VA as verification of social security numbers and date of birth (age).

15-VIII.J Termination of Assistance

HUD has not established any alternative requirements for termination of assistance for HUD–VASH participants. However, prior to terminating HUD–VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR §982.552(c)(2) and consider all relevant circumstances of the specific case, including granting Reasonable Accommodations for persons with disabilities in accordance with 24 CFR part 8, as well as including the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination, prior to determining whether to terminate assistance.

PHA Policy
HACLB will consider all relevant circumstances of the specific case, including granting Reasonable Accommodations for persons with disabilities.

HACLB will also consider the role of the case manager and the impact that ongoing case management services might have on mitigating the conditions that led to the potential termination.

In addition, a HUD–VASH participant family must not be terminated for a circumstance or activity that occurred before admission, was known to the PHA and could not be considered at the time of admission due to HUD–VASH Operating Requirements.

The PHA can terminate the family's assistance only for program violations that occur after the family's admission to the Voucher program.

15-VIII.K Mobility and Portability

An eligible family that is issued a HUD–VASH Voucher must receive case management services provided by the partnering Veterans Affairs Medical Center (VAMC) or Community-Based Outpatient Clinics (CBOC). Therefore, special mobility and portability procedures must be established. HUD–VASH participant families may reside only in those jurisdictional areas that are accessible to case management services as determined by VA HUD–VASH case managers at the partnering VAMC or CBOC.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Since case managers will be identifying homeless veterans eligible to participate in the HUD–VASH program, Section 8(r)(1)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. §§1437f(r)(1(B)(i)), which restricts portability in cases when the family did not reside in the PHA's jurisdiction at the time of application for HCV assistance and 24 CFR §982.353(a-c), which affects where a family can lease a unit with HCV assistance, do not apply.

HUD may publish public housing notices from time to time to further explain portability requirements under the HUD–VASH program.

Portability Moves within Same Catchment Area (or Area of Operation) Where Case Management is provided by the Initial PHA's Partnering VAMC or CBOC

If the family initially leases up or moves under portability and the Initial PHA's partnering VAMC or CBOC can still provide the necessary case management services due to the family's proximity to the partnering VAMC or CBOC, the Receiving PHA must process the move, in accordance with portability procedures. [24 CFR §982.355]

However, since the Initial PHA must maintain records on all HUD–VASH families receiving case management services from its partnering VAMC or CBOC, Receiving PHA without a HUD– VASH program must bill the Initial PHA. Therefore, 24 CFR §982.355(d), which gives the Receiving PHA the option to absorb the family into its own HCV program or bill the Initial PHA, is not applicable.

Portability Moves within Same Catchment Area Where Both PHAs Have Received HUD–VASH Vouchers

The Receiving PHA may bill the Initial PHA or absorb the family into its own HUD–VASH program if the VAMC or CBOC providing the initial case management agrees to the absorption by the Receiving PHA and the transfer of case management. The absorption will also entail the availability of a HUD– VASH Voucher and case management provision by the Receiving PHA's partnering VAMC or CBOC.

> PHA Policy
>
> HACLB will decide to bill the Initial PHA or absorb the family into its own HUD-VASH program on a case-by-case basis, considering the above requirements.

Portability Moves Where Receiving PHA Is Beyond Catchment Area

If a family wants to move to another jurisdiction where it is not possible for the Initial PHA's partnering VAMC or CBOC to provide case management services, the VAMC must first determine that the HUD–VASH family could be served by another VAMC or CBOC that is participating in this program and the Receiving PHA must have a HUD–VASH Voucher available for this family. In these cases, the families must be absorbed by the Receiving PHA, either as a new admission (upon initial participation in the HUD–VASH program) or as a portability move-in (for program participants from the Initial PHA's jurisdiction).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Upon absorption, the Initial PHA's HUD–VASH Voucher will be available to lease to a new HUD–VASH-eligible family, as determined by the partnering VAMC or CBOC and the absorbed family will count toward the number of HUD–VASH slots awarded to the Receiving PHA.

Portability Moves When Case Management Is No Longer Required

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply. When completing the Form HUD-50058, the family will continue to be coded "VASH" on line 2n unless the Initial PHA issues the family a regular Voucher, in which case the code will no longer apply.

15-VIII.L Case Management Requirements

The VAMC or CBOC's responsibilities include:

- Screening homeless veterans to determine whether HUD–VASH program participation criteria established by the VA national office is met;
- Referrals of homeless veterans to the PHA;
- Providing appropriate treatment and supportive services to potential HUD–VASH program participants, if needed, prior to issuance of rental Vouchers;
- Providing housing search assistance to HUD–VASH participants with rental Vouchers;
- Identifying the social service and medical needs of HUD–VASH participants and 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.

As a condition of receiving HCV rental assistance, a HUD–VASH-eligible family must receive the case management services noted above from the VAMC or CBOC. Therefore, a HUD– VASH participant family's HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or CBOC.

However, a VAMC or CBOC determination that the participant family no longer requires case management is not grounds for termination of assistance. In such a case, at its option, PHAs may offer the family continued HCV assistance through one of its regular Vouchers, to free up the HUD–VASH Voucher for another eligible family referred by the VAMC or CBOC.

If the PHA has no Voucher to offer, the family will retain its HUD–VASH Voucher until such time as the PHA has an available Voucher for the family. If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

HACLB will require documentation from the VAMC or CBOC that the VAMC or CBOC has determined that the family no longer requires case management. Upon receipt of the documentation, HACLB will offer the family continued HCV assistance through a regular Voucher, if available.

15-VIII.M Turnover of HUD-VASH Vouchers

Upon turnover, HUD–VASH Vouchers must be issued to eligible families as identified by the VAMC or CBOC.

15-VIII.N Moving to Work (MTW) Agencies

HUD–VASH Vouchers must be administered in accordance with this notice and are not eligible for fungibility under the PHA's MTW agreements. HUD–VASH Vouchers must be reported on separately from Vouchers under the agency's MTW Agreement.

15-VIII.O Project-Based Assistance

Although HUD–VASH Vouchers are tenant-based rental assistance, HUD will consider, on a case-by-case basis, requests from the PHA (with the support of the applicable Director of the VAMC or Veterans Integrated Service Network (VISN)) to project-base these Vouchers in accordance with 24 CFR part 983. Public housing notices will be issued from time to time to address this issue.

15-VIII.P Section Eight Management Assessment Program (SEMAP)

Since the leasing of HUD–VASH Vouchers will be dependent on referrals from the VAMC or CBOC, the housing unit months and budget authority associated with these Vouchers will not be included in the SEMAP leasing indicator. Therefore, 24 CFR 985.3(n)(1)(i) and (ii) are waived. However, utilization of these Vouchers will be monitored separately through HUD systems.

15-VIII.Q Reallocation of HUD-VASH Vouchers

Under the appropriation acts cited herein, Congress has directed the VA and HUD to allocate HUD–VASH Vouchers based on geographical need for such assistance. In recognition that there may be changes and shifts in the population of homeless veterans over time, it may become necessary for HUD to reallocate HUD–VASH Vouchers between PHAs, regardless of the jurisdictional boundaries of the PHA, in order to better address the current need of homeless veterans.

In addition, HUD may reallocate Vouchers due to poor performance by PHAs and/or the VAMC in serving this population, as evidenced by a lack of adequate referrals or inadequate Voucher utilization rates after sufficient warning and cure time has been provided by HUD and/or the VA. Therefore, HUD–VASH Vouchers may be reallocated among PHAs within the same state or between PHAs in different states based on the utilization of previously awarded HUD–VASH Vouchers and current geographic need as determined by the VA and HUD.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this Plan. The policies are discussed in nine parts as described below:

Part I: Administrative Fee Reserve. This part describes the policies of the Housing Authority of the City of Long Beach (HACLB) with regard to oversight of expenditures from its Administrative Fee Reserve.

Part II: Setting Program Standards and Schedules. This part describes the Payment Standards and updates to the Payment Standards, as well as how Utility Allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for Informal Reviews/Hearings and for Informal Hearings regarding citizenship status.

Part IV: Owner or Family Debts to HACLB. This part describes policies for recovery of monies that a Public Housing Agency (PHA) has overpaid and describes the circumstances under which a PHA will offer Repayment Agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a Repayment Agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how the scores are established and how the scores affect PHAs.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level (EIBLL). This part describes the PHA's responsibilities for reporting, data collection and record keeping relative to children under six (6) years of age with EIBLLs who receive HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue Vouchers, to approve moves to higher cost units or areas and to continue assistance for all participant families.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Part IX: Violence Against Women Reauthorization Act of 2013 (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR §982.155]

PHAs must maintain an Administrative Fee Reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD. If funds in the Administrative Fee Reserve are not needed to cover the PHA's administrative expenses, the PHA may use these funds for other housing purposes permitted by Federal, State and local law.

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

HUD requires the PHA's Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the Administrative Fee Reserve without specific approval.

PHA Policy

Expenditures from the Administrative Fee Reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of HACLB's Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other Chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the Payment Standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of Utility Allowances is discussed in Chapter 6).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

Payment Standards and Utility Allowance Schedules are available for review in HACLB's office during normal business hours and on HACLB's website.

Families, owners and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

HACLB will maintain documentation to support its annual review of Payment Standards and Utility Allowance Schedules. This documentation will be retained for at least 3 years.

16-II.B. PAYMENT STANDARDS [24 CFR §982.503; HCV GB, Chapter 7]

The Payment Standard sets the maximum subsidy payment a family can receive from the PHA each month. [24 CFR §982.505(a)] Payment Standards are based on Fair Market Rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

PHAs must establish a Payment Standard schedule that establishes Payment Standard amounts for each FMR area within the PHA's jurisdiction and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single Payment Standard amount for the whole FMR area or may set different Payment Standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a Payment Standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, PHAs must update its Payment Standards if the standards are no longer within the basic range. [24 CFR §982.503(b)] HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high. [24 CFR §982.503(g)]

PHA Policy

HACLB will review the appropriateness of the Payment Standards on an annual basis when the new FMR is published. In addition to ensuring the Payment Standards are always within the "basic range" HACLB will consider the following factors when determining whether an adjustment should be made to the Payment Standard schedule:

Funding Availability: HACLB will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. HACLB will compare the number of families who could be served under revised Payment Standard amounts with the number assisted under current Payment Standard amounts.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, HACLB will consider increasing the Payment Standard. In evaluating rent burdens, HACLB will not include families renting a larger unit than their family unit size.

Quality of Units Selected: HACLB may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

Changes in Rent to Owner: HACLB may review a sample of the housing units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: HACLB may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: HACLB will consider the percentage of families that are unable to locate suitable housing before the Voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Each year, HACLB will determine the effective date of the revised Payment Standard schedule. HACLB will take into consideration the time period required to process reexaminations in advance of effective dates.

Exception Payment Standards [24 CFR §982.503(c)]
PHAs must request HUD approval to establish Payment Standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a Payment Standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception Payment Standard amount (in accordance with program requirements) for all units or for all units of a given size, leased in the exception area. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR §982.503(c)(2)(ii), §982.505(d), and Notice PIH 2010-26]
Unit-by-unit exceptions to the PHA's Payment Standards generally are not permitted. However, an exception may be made as a Reasonable Accommodation for a family that includes a person with disabilities. This type of exception does not affect the PHA's Payment Standard schedule. (see Chapter 2 for a discussion of Reasonable Accommodations.)

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

When needed as a Reasonable Accommodation, PHAs may make an exception to the Payment Standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size. [HCV GB, page 7-9]

PHAs may request HUD approval for an exception to the Payment Standard for a particular family, if the required amount falls between 110 and 120 percent of the FMR.

PHA Policy

A family that requires a Reasonable Accommodation may request a higher Payment Standard at the time the Request For Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception or request an exception from HUD, HACLB must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's share would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the housing unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR §982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "Success Rate Payment Standard" that applies to the entire jurisdiction. If approved by HUD, a success rate Payment Standard allows the PHA to set its Payment Standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued Vouchers became participants;
- The PHA established Payment Standards for all unit sizes and for the entire jurisdiction at 110 percent of the published FMR; and
- The PHA had a policy of allowing Voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate Payment Standard for all unit sizes in the FMR area, the PHA may choose to adjust the Payment Standard for only some unit sizes in all or a designated part, of the PHA's jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR §982.503(d)]

PHAs must request HUD approval to establish a Payment Standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a Payment Standard lower than the basic range. HUD will not approve a lower Payment Standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

16-II.C. UTILITY ALLOWANCES [24 CFR §982.517 and HCV GB, Chapter 18]

A PHA-established Utility Allowance Schedule is used in determining family share and the PHA's subsidy. PHAs must maintain a Utility Allowance Schedule for (1) all tenant-paid utilities; (2) the cost of tenant-supplied refrigerators and ranges; and (3) other tenant-paid housing services, such as trash collection.

The Utility Allowance Schedule must be determined, based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, PHAs must use normal patterns of consumption for the community as a whole and current utility rates.

The Utility Allowance must include the utilities and services that are necessary to provide housing that complies with Housing Quality Standards. Costs for telephone, cable/satellite television and internet services are not included in the schedule.

In the Utility Allowance Schedule, the PHA must classify utilities and other housing services, according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. (see the HCV Guidebook, Chapter 18)

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

> PHA Policy
>
> HACLB includes an allowance for air-conditioning in the Utility Allowance Schedule. Central air-conditioning or a portable [window] air conditioner must be present in a unit before HACLB will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

HCV program regulations require PHAs to approve a Utility Allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a Reasonable Accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (see Chapter 2 for policies regarding the request and approval of Reasonable Accommodations).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Utility Allowance Revisions

PHAs must review the schedule of Utility Allowances each year and must revise the schedule if there is a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised. PHAs must maintain information supporting the annual review of Utility Allowances and any revisions made in the Utility Allowance Schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

When a PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an Informal Review. For participants or for applicants denied admission due to citizenship/immigration status, the appeal takes the form of an Informal Hearing.

PHAs are required to include Informal Review procedures and Informal Hearing procedures in their Administrative Plan. [24 CFR §982.54(d)(12) and (13)]

16-III.B. INFORMAL REVIEWS [24 CFR §982.554]

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the HCV program and has not yet participated in the program. Informal reviews are intended to provide a "minimum hearing requirement" and need not be as elaborate as the Informal Hearing requirements. [*Federal Register* 60, no. 127 (3 July 1995): 34690]

Decisions Subject to Informal Review

PHAs must give an applicant the opportunity for an Informal Review of a decision denying assistance. [24 CFR §982.554(a)]

Denial of assistance may include any or all of the following: [24 CFR §982.552(a)(2)]

- Denying listing on the PHA's waiting list;
- Denying or withdrawing a Voucher;
- Refusing to enter into a HAP Contract or approve a lease; and
- Refusing to process or provide assistance under portability procedures.

Informal reviews are *not* required for the following reasons: [24 CFR §982.554(c)]

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- A determination of the family unit size under the PHA Subsidy Standards;
- A determination not to approve an extension or suspension of a Voucher term;
- A determination not to grant approval of the tenancy;
- A determination that the housing unit is not in compliance with HQS; and
- A determination that the housing unit is not in accordance with HQS due to family size or composition.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy
HACLB will only offer an Informal Review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on HACLB waiting list; denying or withdrawing a Voucher; refusing to enter into a HAP Contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant [24 CFR §982.554(a)]
PHAs must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA's decision and must also state that the applicant may request an Informal Review of the decision. The notice must describe how to obtain the Informal Review.

Scheduling an Informal Review

PHA Policy
A request for an Informal Review must be made in writing and delivered to HACLB either in person, by first class mail, fax or email, by the close of the business day, no later than ten (10) business days from the date of HACLB's letter of denial of assistance.

HACLB will schedule and send written notice of the Informal Review within fifteen (15) business days of the family's request.

Informal Review Procedures [24 CFR §982.554(b)]
The Informal Review must be conducted by a person other than the one who made or approved the decision under review or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the PHA's decision.

Informal Review Decision [24 CFR §982.554(b)]
PHAs must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

PHA Policy
In rendering a decision, HACLB will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice;
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned;
- The validity of the evidence. HACLB 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, HACLB will uphold the decision to deny assistance; and

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- If the facts prove the grounds for denial and the denial is discretionary, HACLB will consider the recommendation of the person conducting the Informal Review in making the final decision whether to deny assistance.

HACLB will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within fifteen (15) business days of the Informal Review, to the applicant and his or her 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 a scheduled Informal Review, the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARING FOR PARTICIPANTS [24 CFR §982.555]

PHAs must offer an Informal Hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that was admitted to the PHA's HCV program and is currently assisted in the program. The purpose of an Informal Hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

PHAs are 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 is completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP Contract or approve a lease;
- Terminating Housing Assistance Payments under an outstanding HAP Contract;
- Refusing to process or provide assistance under portability procedures.

Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an Informal Hearing are, as follows:

- A determination of the family's annual or adjusted income and the use of such income to compute the Housing Assistance Payment;
- A determination of the appropriate Utility Allowance (if any) for tenant-paid utilities from the PHA's Utility Allowance Schedule;
- A determination of the family unit size under the PHA's Subsidy Standards;
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA's Subsidy Standards or the PHA's determination to deny the family's request for exception from the standards;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- A determination to terminate assistance for a participant family because of the family's actions or failure to act;
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA Policy and HUD rules;
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services or propose forfeiture of the family's escrow account. [24 CFR §984.303(i)]

Circumstances for which an Informal Hearing is not required are, as follows:

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- Establishment of the PHA's Utility Allowances Schedule for families in the program;
- A determination not to approve an extension or suspension of a Voucher term;
- A determination not to approve a unit or tenancy;
- A determination that the unit selected by the family is not in compliance with HQS;
- A determination that the housing unit is not in accordance with HQS because of family size; and
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP Contract.

PHA Policy
HACLB will only offer participants the opportunity for an Informal Hearing when required by HCV regulations.

Informal Hearing Procedures

Notice to the Family [24 CFR §982.555(c)]
When PHAs make a decision that is subject to Informal Hearing procedures, the PHA must inform the family of its right to an Informal Hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate Utility Allowance and the determination of the family unit size, the PHA must notify the family of their right to ask for an explanation of the basis of the determination and that if the family does not agree with the decision, they may request an Informal Hearing on the decision.

For decisions related to the termination of the family's assistance or the denial of a family's request for an exception to the PHA's Subsidy Standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an Informal Hearing and a statement of the deadline for the family to request an Informal Hearing.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

In cases when HACLB makes a decision for which an Informal Hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of HACLB;
- A brief statement of the reasons for the decision including the regulatory reference;
- The date the proposed action will take place;
- A statement of the family's right to an explanation of the basis for HACLB's decision;
- A statement that if the family does not agree with the decision the family may request an Informal Hearing of the decision;
- A deadline for the family to request the Informal Hearing;
- To whom the hearing request should be addressed; and
- A copy of HACLB's hearing procedures.

Scheduling an Informal Hearing [24 CFR §982.555(d)]

When an Informal Hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

PHA Policy

A request for an Informal Hearing must be made in writing and delivered to HACLB in person, by first class mail, by fax or email by the close of the business day, no later than ten (10) business days from the date of HACLB's decision or notice to terminate assistance.

HACLB will schedule and send written notice of the Informal Hearing to the family within fifteen (15) business days of the family's request.

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, HACLB may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact HACLB within 24 hours of the scheduled hearing date, excluding weekends and holidays. HACLB 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Pre-Hearing Right to Discovery [24 CFR §982.555(e)]
Participants and PHAs are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA's hearing procedures may provide that the PHA must be given the opportunity to examine, at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the documents available for examination on request of the PHA, the family may not rely on the documents at the hearing.

For the purpose of Informal Hearings, *documents* include records and regulations.

> PHA Policy
> The family will be allowed to copy any documents related to the hearing at a cost of ten cents per page. The family must request discovery of HACLB documents at the time the hearing is requested.
>
> HACLB must be given an opportunity to examine, at HACLB offices, before the hearing, any family documents that are directly relevant to the hearing.
>
> When a participant requests an Informal Hearing, HACLB will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 p.m. PST on the business day prior to the scheduled hearing date.

Participant's Right to Bring Counsel [24 CFR §982.555(e)(3)]
At its own expense, the family may be represented by a lawyer or other representative at the Informal Hearing.

Informal Hearing Officer [24 CFR §982.555(e)(4)]
Informal Hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

> PHA Policy
> HACLB contracts with qualified firms and/or individuals to serve as hearing officers.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Attendance at the Informal Hearing

PHA Policy
Hearings may be attended by a hearing officer and the following applicable persons:

- HACLB representative(s) and any witnesses for HACLB;
- The participant and any witnesses for the participant;
- The participant's counsel or other representative;
- The participant's interpreter; and
- Any other person approved by HACLB as a Reasonable Accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with HACLB's hearing procedures. [24 CFR §982.555(e)(4)(ii)]

PHA Policy
The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence [24 CFR §982.555(e)(5)]

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an Informal Hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

PHA Policy
Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence:

- **Oral evidence**: the testimony of witnesses;
- **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to HACLB. 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; and
- **Real evidence**: A tangible item relating directly to the case.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

"Hearsay Evidence" is evidence of a statement made other than by a witness while testifying at the hearing that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for a hearing officer's decision.

If either HACLB or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence. With the agreement of both parties, the hearing may allow the admission of 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.

Hearing Officer's Decision [24 CFR §982.555(e)(6)]
The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

PHA Policy
In rendering a decision, the hearing officer will consider the following matters:

- **PHA Notice to the Family**: The hearing officer will determine if the reasons for HACLB's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if HACLB and the family were given the opportunity to examine relevant documents, in accordance with PHA policy.
- **PHA Evidence to Support Decision**: Evidence consists of facts presented. The evidence is not conclusion or argument. The hearing officer will evaluate the facts to determine if HACLB's conclusion is supported.
- **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 HACLB policies. If the grounds for termination are not specified in the regulations or in compliance with HACLB policies, then the decision of HACLB will be overturned.

The hearing officer will issue a written decision to the family and HACLB no later than fifteen (15) business days after the hearing. The report will contain the following information:

- **Hearing information:**
  - Name of the participant;
  - Date, time and place of the hearing;
  - Name of the hearing officer;
  - Name of HACLB representative; and
  - Name of family representative (if any).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- **Background**: A brief, impartial statement of the reason for the hearing.
- **Summary of the Evidence**: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and admitted into evidence.
- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence is determined by the greater weight of all the evidence, rather than the number of witnesses.
- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold HACLB's decision.
- **Order:** The hearing report will include a statement of whether HACLB's decision is upheld or overturned. If it is overturned, the hearing officer will instruct HACLB to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct HACLB to restore the participant's program status.

Procedures for Rehearing or Further Hearing

PHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of HACLB will take effect and another hearing will not be granted.

In addition, within ten (10) business days after the date the hearing officer's report is mailed to HACLB and the participant, the participant may appeal the decision. Such appeal must be made in writing and be mailed, emailed, faxed or hand-delivered to HACLB within the ten (10) business day period.

The request must demonstrate cause, supported by specific references to the hearing officer's report, why the appeal request should be granted and must include information not previously presented at hearing.

An appeal is normally limited to written submissions by the parties. HACLB will forward the appeal to the Housing Assistance Officer for final decision.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Notice of Final Decision [24 CFR §982.555(e)(f)]
The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the hearing officer's decision, in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

> PHA Policy
> HACLB will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in HACLB's file.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR §5.514]
Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an Informal Hearing, not an Informal Review.

Assistance to a family may not be delayed, denied or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending; however, assistance to an applicant may be delayed pending the completion of the Informal Hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA Informal Hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR §5.514(d)]
The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families. [24 CFR §5.514 and 5.518]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an Informal Hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process; however, assistance may be delayed during the period of the Informal Hearing process.

USCIS Appeal Process [24 CFR §5.514(e)]
When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

> PHA Policy
> HACLB will notify the family in writing of the results of the USCIS secondary verification within fifteen (15) business days of receiving the results.
>
> The family must provide HACLB with a copy of the written request for appeal and proof of mailing within ten (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 the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an Informal Hearing.

> PHA Policy
> HACLB will send written notice to the family of their right to request an Informal Hearing within fifteen (15) business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR §5.514(f)]
After notification of the USCIS decision on appeal or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA's notice of denial or within 30 days of receipt of the USCIS appeal decision.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Informal Hearing Officer

PHAs must provide an Informal Hearing before an impartial individual, other than a person who made or approved the decision under review and other than a person who is a subordinate of the person who made or approved the decision. (see Section 16-III.C. for a listing of positions that serve as Informal Hearing Officers)

Evidence

At a reasonable time in advance of the hearing, the family must be provided the opportunity to examine and copy any documents in the PHA's possession pertaining to the family's eligibility status, at the family's expense, or documents in the possession of USCIS (as permitted by USCIS requirements). This includes any records and regulations that may be relevant to the hearing.

> PHA Policy
>
> The family will be allowed to copy any documents related to the hearing at a cost established by the City of Long Beach. The family must request discovery of HACLB documents at the time the hearing is requested.
>
> Before the hearing, HACLB must be given an opportunity to examine family documents that are directly relevant to the hearing at HACLB offices. When a participant requests an Informal Hearing, HACLB will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 p.m. PST on the business day prior to the scheduled hearing date.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA and to cross-examine all witnesses on whose testimony or information was relied upon by the PHA.

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 arrange for an interpreter to attend the hearing, at the expense of the family or the PHA, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

> PHA Policy
>
> HACLB will not provide a transcript of an audio taped hearing.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Hearing Decision
PHAs must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the Informal Hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR §5.514(f)]
After notification of the USCIS decision on appeal or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA's notice of termination or within 30 days of receipt of the USCIS decision. (Section 16-III.C)

Retention of Documents [24 CFR §5.514(h)]
The PHA must retain, for a minimum of five (5) years, the following documents that may have been submitted to the PHA by the family or provided to the PHA as part of the USCIS appeal or the 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 and request for USCIS appeal;
- The final USCIS determination;
- Informal Hearing documents.

PART IV: OWNER OR FAMILY DEBTS TO THE PHA [24 CFR §982.54]

16-IV.A. OVERVIEW
PHAs are required to include in the Administrative Plan, policies concerning repayment by a family of amounts owed to the PHA. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

PHA Policy
When an action or inaction of an owner or participant results in the overpayment of housing assistance, HACLB holds the owner or participant liable to return any overpayments to HACLB.

HACLB will enter into Repayment Agreements in accordance with the policies contained in this part as a means to recover overpayments. When an owner or participant refuses to repay monies owed, HACLB will utilize other available collection alternatives including, but not limited to:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program
- HUD's Office of Inspector General

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

16-IV.B. REPAYMENT POLICY

Owner Debts to the PHA

PHA Policy
Any amount due to HACLB by an owner must be repaid within 30 days of the debt determination. If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, HACLB will reduce future HAP payments by the amount owed until the debt is paid in full. If the owner is not entitled to future HAP payments HACLB may, in their sole discretion, offer to enter into a Repayment Agreement on terms prescribed by HACLB.

Family Debts to the PHA

PHA Policy
Any amount owed to HACLB by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, HACLB may offer to enter into a Repayment Agreement, in accordance with repayment policies.

If the family refuses to repay the debt, does not enter into a Repayment Agreement or breaches an Agreement, HACLB will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

Repayment Agreement [24 CFR §792.103]
The term Repayment Agreement refers to a formal written document signed by a family or owner and provided to the PHA in which a family or owner acknowledges a debt in a specific amount and agrees to repay the amount at specific time periods.

General Repayment Agreement Guidelines for families

Down Payment Requirement

PHA Policy
Before executing a Repayment Agreement with a family, HACLB will generally require a down payment of 15 percent of the total amount owed. If the family can provide evidence satisfactory to HACLB that a down payment of 15 percent would impose an undue hardship, HACLB may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds [24 CFR §982.552(c)(1)(vii)2]
Notice PIH 2017-12 recommends the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 percent or more of monthly adjusted income in rent. Moreover, PHAs have the discretion to establish "thresholds and policies" for Repayment Agreements.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy
HACLB has established the following thresholds for repayment of debts:

- Amounts between $1 and $500 must be repaid within 6 months.
- Amounts between $501 and $1,000 must be repaid within 12 months.
- Amounts between $1,001 and $2,500 must be repaid within 18 months.
- Amounts between $2,501 and $5,000 must be repaid within 30 months.
- Amounts between $5,001 and $7,500 must be repaid within 42 months.
- Amounts between $7,501 and $10,000 must be repaid within 54 months.
- Amounts more than $10,001 must be repaid within 66 months.

Execution of the Agreement

PHA Policy
Any Repayment Agreement between HACLB and a family must be signed and dated by HACLB and the head of household and spouse/co-head (if applicable).

Due Dates

PHA Policy
All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Late or Missed Payments

PHA Policy
HACLB may consider suspending the repayment requirement for 90 days if HACLB determines the payments were missed for good cause. This is a one-time suspension.

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 HACLB, HACLB will send the family a delinquency notice giving ten (10) business days to make the late payment. If the payment is not received by the due date of the delinquency notice, HACLB will send a default notice requiring the full amount of the remaining overpayment to be paid within five (5) calendar days.

If payment is not received by the due date of the default notice, it will be considered a breach of the agreement and HACLB will terminate assistance in accordance with the policies in Chapter 12.

If a family receives two delinquency notices for unexcused late payments in a 12-month period, the Repayment Agreement will be considered in default and HACLB will terminate assistance in accordance with the policies in Chapter 12.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

No Offer of Repayment Agreement

PHA Policy
HACLB generally will not enter into a Repayment Agreement with a family if there is already a Repayment Agreement in place with the family.

Repayment Agreements Involving Improper Payments

Notice PIH 2017-12 requires certain provisions to be included in any Repayment Agreement involving amounts owed by a family due to underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act;
- A statement clarifying that each month the family must not only pay to the PHA the monthly payment amount specified in the agreement, but must also pay to the owner the family's monthly share of the rent to owner;
- A statement that the terms of the Repayment Agreement may be renegotiated if the family's income decreases or increases; and
- A statement that late or missed payments constitute default of the Repayment Agreement and may result in termination of assistance.

PART V: MANAGEMENT ASSESSMENT (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure the PHA's performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability. [24 CFR §985.103]
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD. [24 CFR §985.106]
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan and monitoring to ensure the successful implementation of the corrective action plan. In addition, "troubled" PHAs may not use any part of the Administrative Fee Reserve for other housing purposes. [24 CFR §985.107]
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC. [24 CFR §985.109]

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

16-V.B. SEMAP CERTIFICATION [24 CFR §985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA's Executive Director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required and the certification must be executed by the Section 8 program director.

PHAs with less than 250 Vouchers are only required to be assessed every other the PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as "troubled". [24 CFR §985.105]

Failure of the PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

The PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements. [24 CFR §985.2]

If the HUD verification method for the indicator relies on data in the PIH Information Center (PIC) module and HUD determines those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator. [24 CFR 985.3]

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and Form HUD-52648]

The following below lists each of the SEMAP indicators, contains a description of each indicator and explains the basis for points awarded under each indicator.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

SEMAP Indicators Chart
Indicator 1: Selection from the Waiting List **Maximum Score: 15** ▪ This indicator shows whether the PHA has written policies for selecting applicants from the waiting list in its Administrative Plan and whether the PHA follows these policies when selecting applicants for admission. ▪ Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies.
Indicator 2: Rent Reasonableness **Maximum Score: 20** ▪ This indicator shows whether the PHA has and implements a reasonable written method to determine and document that the rent to owner is reasonable based on current rents for comparable unassisted units ▪ Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable.
Indicator 3: Determination of Adjusted Income **Maximum Score: 20** ▪ This indicator measures whether the PHA verifies and correctly determines adjusted income, assets, expenses, and where applicable, uses the appropriate Utility Allowance in determining the gross rent. ▪ Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.
Indicator 4: Utility Allowance Schedule **Maximum Score: 5** ▪ This indicator shows whether the PHA maintains an up-to-date Utility Allowance Schedule. ▪ Points are based on whether the PHA has reviewed the Utility Allowance Schedule and made adjustments when required.
Indicator 5: HQS Quality Control Inspections **Maximum Score: 5** ▪ This indicator shows whether a PHA supervisor re-inspects a sample of units under contract during the PHA's fiscal year. ▪ Points are based on whether the required quality control re-inspections were completed.
Indicator 6: HQS Enforcement **Maximum Score: 10** ▪ This indicator shows whether, following each HQS inspection of a unit under contract where the housing unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension. ▪ Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Indicator 7: Expanding Housing Opportunities
Maximum Points: 5

- Only applies to the PHA with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs Voucher holders of areas where a unit may be leased, both inside and outside of the PHA's jurisdiction; and supplies a list of property owners or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

Indicator 8: FMR Limit and Payment Standards
Maximum Points: 5

- This indicator shows whether the PHA adopted a Payment Standard schedule that establishes Payment Standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a Payment Standard schedule(s), according to the PHA's certification.

Indicator 9: Annual Reexaminations
Maximum Points: 10

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of correctly completed reexaminations.

Indicator 10: Correct Tenant Rent Calculations
Maximum Points: 5

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct tenant rent calculations.

Indicator 11: Pre-Contract HQS Inspections
Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP Contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP Contract.

Indicator 12: Annual HQS Inspections
Maximum Points: 10

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of leased units under contract that have been inspected within the PHA's timeframe.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Indicator 13: Lease-Up
Maximum Points: 20 points

- This indicator shows whether the PHA enters HAP Contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed PHA fiscal year or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA's last year-end operating statement that is recorded in HUD's accounting system.

Indicator 14: Family Self-Sufficiency (FSS) Enrollment and Escrow Account Balances
Maximum Points: 10

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

Success Rate of Voucher Holders
Maximum Points: 5

- Only applies to PHAs that have received approval to establish success rate Payment Standard amounts and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate Payment Standard amounts.
- This indicator shows whether Voucher holders were successful in leasing units with Voucher assistance.
- Points are based on the percent of families that were issued Vouchers and that became participants in the Voucher program.

De-concentration Bonus Indicator
Maximum Points: 5

- Submission of data for this indicator is mandatory for a PHA using one or more Payment Standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50th percentile rent, starting with the second full PHA fiscal year following initial use of Payment Standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

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

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

16-VI.B. RECORD RETENTION [24 CFR §982.158]

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

- A copy of the executed lease;
- The HAP Contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender and disability status data on program applicants and participants;
- Applications and notices for each ineligible applicant;
- HUD-required reports, including unit inspection reports;
- Lead-Based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting the PHA's budget and financial statements for the program;
- Records to document the basis for the PHA's determination that rent to owner is a reasonable rent (initially and during the term of a HAP Contract); and
- Other records specified by HUD.

If an Informal Hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACLB staff.

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Privacy Act Requirements [24 CFR §5.212 and Form-9886]
The collection, maintenance, use and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers and income information must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974 and all other provisions of Federal, State and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used and under what conditions HUD or the PHA may release the information collected.

Upfront Income Verification (UIV) Records
PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

> PHA Policy
> Prior to utilizing HUD's EIV system, HACLB will adopt and implement EIV security procedures required by HUD.

Criminal Records
PHAs may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA or to authorized representatives of the PHA who have a job-related need to have access to the information. [24 CFR §5.903(e)]

PHAs must establish and implement a system of records management that ensures that any criminal record received from a law enforcement agency is maintained confidentially, not misused or improperly disseminated and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA's action without institution of a challenge or final disposition of any such litigation. [24 CFR §5.903(g)]

PHAs must establish and implement a system of records management that ensures that any sex offender registration information received from a State or local agency is maintained confidentially, not misused or improperly disseminated and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA's action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR §5.905.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Medical/Disability Records
PHAs are not permitted to inquire about the nature or extent of a person's disability. PHAs may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If a PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

Documentation of Domestic Violence, Dating Violence or Stalking
For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence or stalking, see section 16-IX.E.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW
PHAs have certain responsibilities relative to children with Environmental Intervention Blood Lead Levels (EIBLL) that receive HCV assistance. Notification, verification and hazard reduction requirements are discussed in Chapter 8. This part deals with PHA's reporting requirements, data collection and record keeping responsibilities.

16-VII.B. REPORTING REQUIREMENT [24 CFR §35.1225(e)]
PHAs must report the name and address of a child identified as having an Environmental Intervention Blood Lead Level to the public health department within five (5) business days of being notified by any other medical health care professional.

> PHA Policy
> HACLB will provide the public health department written notice of the name and address of any child identified as having an Environmental Intervention Blood Lead Level (EIBLL).

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR §35.1225(f)]
At least quarterly, PHAs must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified EIBLL.

If the PHA obtains names and addresses of Environmental Intervention Blood Lead Level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification and hazard reduction requirements discussed in Chapter 8 and the reporting requirement discussed above.

At least quarterly, PHAs must also report an updated list of the addresses of assisted units to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

The public health department requested not to receive a report of HCV program addresses in HACLB's jurisdiction on a quarterly basis. Therefore, HACLB will not provide such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance. [24 CFR §982.314(e)(1) and §982.454] Insufficient funding may also impact the PHA's ability to issue Vouchers to families on the waiting list. This part discusses the methodology HACLB will use to determine whether or not there is sufficient funding to issue Vouchers, approve moves and to continue subsidizing all families currently under a HAP Contract.

16-VIII.B. METHODOLOGY

PHA Policy

HACLB will determine whether there is adequate funding to issue Vouchers, approve moves to higher cost units and continue subsidizing current participants by comparing HACLB's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, HACLB will add anticipated HAP expenditures for the remainder of the calendar year.

Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority or if HACLB cannot support the cost of the proposed subsidy commitment (Voucher issuance or move) based on the funding analysis, HACLB will be considered to have insufficient funding.

PART IX: VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

The Violence Against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the Housing Choice Voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and HACLB's policies in three areas: notification, documentation and confidentiality. Specific VAWA requirements and HACLB's policies are located primarily in the following sections:

- 3-I.C "Family Breakup and Remaining Member of Tenant family";
- 3-III.G "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence and Stalking";
- 10-I.A "Allowable Moves";
- 10-I.B "Restrictions on Moves";
- 12-II.E "Terminations Related to Domestic Violence, Dating Violence or Stalking"; and
- 12-II.F "Termination Notice."

16-IX.B. DEFINITIONS [24 CFR §5.2003]

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and when the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship;
  - The type of relationship;
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister or child of that individual or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault or stalking.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal or state law, including when the victim lacks the capacity to consent.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

16-IX.C. NOTIFICATION [24 CFR §5.2005(a)]

Notification to Public
HACLB adopts the following policy to help ensure that all actual and potential beneficiaries of the HCV program are aware of their rights under VAWA.

PHA Policy
HACLB will post the following information regarding VAWA in its offices and on its website. HACLB will also make the information readily available to anyone who requests it. (sample notices in Exhibits 16-1 and 16-2)

A summary of the rights and protections provided by VAWA to HCV program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault or stalking.

The definitions of *domestic violence*, *dating violence*, *sexual assault and stalking* provided in VAWA.

An explanation of the documentation that HACLB may require from an individual who claims the protections provided by VAWA.

A copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking.

A statement of HACLB's obligation to keep confidential any information received from a victim unless: (a) HACLB has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding or (c) it is compelled by law to release the information.

The National Domestic Violence Hotline: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Contact information for local victim advocacy groups or service providers.

Notification to Program Applicants and Participants [24 CFR §5.2005(a)(1)]
PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when assistance is denied, for admission to the HCV program and when a PHA sends notification of an eviction or termination of housing benefits.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy
HACLB will provide all applicants with information about VAWA at the time of application for housing assistance. HACLB includes information about VAWA in all notices of denial of assistance (section 3-III.G).

HACLB will provide all participants with information about VAWA at the time of admission (see section 5-I.B). HACLB will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault and Stalking.

In addition to Exhibit 16-1, HACLB has implemented an Emergency Transfer Plan, with associated recordkeeping and reporting requirements, as described in Federal Register 2016-25888.

Notification to Owners and Managers [24 CFR §5.2005(a)(2)]
PHAs are required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

PHA Policy
HACLB will provide owners and managers with information about their rights and obligations under VAWA when program participation begins with the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence and Stalking.

16-IX.D. DOCUMENTATION [24 CFR Part 5, Subpart L, §5.2007]

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

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR §5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

(2) A federal, state, tribal, territorial or local police report or court record or an administrative record;

(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking or the effects of such abuse. This person may be an employee, agent or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

PHAs may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation.

PHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline. HACLB may, in its discretion, extend the deadline for ten (10) business days. Any extension granted by HACLB will be in writing.

Conflicting Documentation [24 CFR Part 5, Subpart L, §5.2007(e)]

In cases when the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine who is the true victim by requiring each person to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

PHA Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, HACLB will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR §5.2007(e) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR Part 5, Subpart L, §5.2007(d)]

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

If HACLB accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault or stalking, HACLB will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR Part 5, Subpart L, §5.2007(c)]

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

16-IX.E. CONFIDENTIALITY [24 CFR Part 5, Subpart L, §5.2007(b)(4)]

All information provided to the PHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information without explicit authorization and a need to know the information for purposes of their work and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding or (c) otherwise required by applicable law.

PHA Policy

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 16-1: Notice of Occupancy Rights under the Violence Against Women Reauthorization Act of 2013 (VAWA)

Form HUD-5380

Housing Authority of the City of Long Beach (HACLB)

Notice of Occupancy Rights under the Violence Against Women Act[1]

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[2] The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the Section 8, Public Housing, and other covered housing programs is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under the Section 8, Public Housing or other covered housing programs, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you receive assistance under Section 8, Public Housing or other covered housing programs, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under Section 8, Public Housing or other covered housing programs solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

HACLB may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If HACLB chooses to remove the abuser or perpetrator, HACLB may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, HACLB must allow the tenant who is or was a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, HACLB must follow Federal, State, and local

---

[1] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

[2] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

eviction procedures. In order to divide a lease, HACLB may, but is not required to, ask you for documentation/certification of the incidences of domestic violence, dating violence, sexual assault or stalking.

Moving to Another Unit

Upon your request, HACLB may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, HACLB may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

(1) **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

(2) **You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

(3) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future. **OR**

(4) **You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HACLB will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

HACLB's emergency transfer plan provides further information on emergency transfers, and HACLB must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are/Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

HACLB can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HACLB must be in writing, and HACLB must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HACLB may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HACLB as documentation. It is your choice which of the following to submit if HACLB asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HACLB with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.

- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that HACLB has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HACLB does not have to provide you with the protections contained in this notice.

If HACLB receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HACLB has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation when there is conflicting evidence, HACLB does not have to provide you with the protections contained in this notice.

Confidentiality
HACLB must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HACLB must not allow any individual administering assistance or other services on behalf of HACLB (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HACLB must not enter your information into any shared database or disclose your information to any other entity or individual. HACLB, however, may disclose the information provided if:

- You give written permission to HACLB to release the information on a time limited basis.

- HACLB needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.

- A law requires HACLB or your landlord to release the information.

VAWA does not limit HACLB's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases when a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance Terminated
You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HACLB cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HACLB can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1) Would occur within an immediate time frame, and

2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If HACLB can demonstrate the above, HACLB should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws
VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with the Requirements of this Notice
You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with the local HUD Field Office.

For Additional Information
You may view a copy of HUD's final VAWA rule at:
https://www.federalregister.gov/documents/2016/11/16/2016-25888/violence-against-women-reauthorization-act-of-2013-implementation-in-hud-housing-programs.

Additionally, HACLB must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact HACLB at (562) 570-6985.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY).

You may also contact:

- **Long Beach Multi-Service Center, (562) 570-4500**, 1301 W. 12th Street, Long Beach CA
- **Interval House Hotline, (562) 594-4555,** 6615 E. Pacific Coast Hwy Suite 170, Long Beach CA

For tenants who are/have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center: https://www.victimsofcrime.org/our-programs/stalking-resource-center.

For help regarding sexual assault and/or victims of stalking seeking help, you may contact:

- For emergencies: **call 9-1-1**
- For non-emergencies: **call LBPD Dispatch at (562) 435-6711**
  A uniformed police officer will respond to your location or victims may walk into any police station to report the incident.

Attachment: Certification Form HUD-5382.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

EXHIBIT 16-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence and stalking. The name of the law is the Violence Against Women Act or "VAWA." This notice explains your obligations under VAWA.

Protections for Victims
You cannot refuse to rent to an applicant solely because he or she is a victim of domestic violence, dating violence or stalking.

You cannot evict a tenant who is the victim of domestic violence, dating violence or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions
You can evict a victim of domestic violence, dating violence or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence or stalking. You cannot hold a victim of domestic violence, dating violence or stalking to a more demanding standard than you hold tenants who are not victims.

Removing the Abuser from the Household
You may bifurcate (split) the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the housing unit. If you choose to remove the abuser, you may not take away the remaining tenants' rights to the housing unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state and local eviction procedures.

Certification of Domestic Violence, Dating Violence or Stalking
If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- A completed, signed HUD-approved certification form. The most recent form is HUD-5382. This form is available at the housing authority or online at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5.

- A statement from a victim service provider, attorney or medical professional who has helped the victim address incidents of domestic violence, dating violence or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.

- A police or court record, such as a protective order.
  If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality
You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.

- The information is required for use in an eviction proceeding, such as to evict the abuser.

- Release of the information is otherwise required by law.
  The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws
VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases when a family breaks up.
VAWA does not replace any federal, state or local law that provides greater protection for victims of domestic violence, dating violence or stalking.

Additional Information
- If you have any questions regarding VAWA, please contact:

- HUD Notice PIH 2006-42 contains detailed information regarding VAWA's certification requirements. The notice is available at: http://www.hud.gov/offices/adm/hudclips/.

- For a discussion of VAWA's housing provisions, see the preamble to the final VAWA rule, which is available at: http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Definitions
For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with or has cohabitated with the victim as a spouse;
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies;
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

VAWA defines *dating violence* as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) when the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship;
- The type of relationship;
- The frequency of interaction between the persons involved in the relationship.

VAWA defines *stalking* as (A)(i) to follow, pursue or repeatedly commit acts with the intent to kill, injure, harass or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass or intimidate another person AND (B) 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 (i) that person, (ii) a member of the immediate family of that person or (iii) the spouse or intimate partner of that person.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes U.S. Department of Housing and Urban Development (HUD) regulations and the Housing Authority of the City of Long Beach (HACLB) policies related to the Project-Based Voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals. It describes the factors Public Housing Agencies (PHAs) consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance for projects assistance, subsidy layering requirements, site selection standards and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to Housing Quality Standards, the type and frequency of inspections and housing accessibility.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP Contract requirements and policies including the execution, term and termination of the HAP Contract. In addition, it describes how the HAP Contract may be amended and identifies provisions that may be added to the HAP Contract at HACLB's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how HACLB and the owner selects a family for PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the housing units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined and how rent will be re-determined throughout the life of the HAP Contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR §983.5]

The Project-Based Voucher (PBV) program allows PHAs that already administer a tenant-based Voucher program under an Annual Contributions Contract (ACC) with HUD to take up to 20 percent of its Voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance. [24 CFR §983.6] PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan and the goal of deconcentrating poverty and expanding housing and economic opportunities. [42 U.S.C. §1437f(o)(13)]

> PHA Policy
> HACLB will operate a Project-Based Voucher program using up to 20 percent of its budget authority for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing. [24 CFR §983.52] If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP Contract, the PHA is not required to reduce the number of units if the amount of budget authority is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available under the ACC for Project-Based Vouchers. [24 CFR §983.6]

17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHERS [24 CFR §983.2]

Much of the tenant-based Voucher program regulations also apply to the PBV program. Consequently, many of the PHA's policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based Voucher regulations that do not apply to the PBV program are listed at 24 CFR §983.2.

> PHA Policy
> Except as otherwise noted, or unless specifically prohibited by PBV program regulations, HACLB policies for the tenant-based Voucher program contained in this Administrative Plan also apply to the PBV program and its participants.

17-I.C. RELOCATION REQUIREMENTS [24 CFR §983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) [42 U.S.C. §§4201-4655] and implementing regulations at 49 CFR Part 24.

The cost of required relocation assistance may be paid with funds provided by owners, local public funds or funds available from other sources. PHAs may not use HCV funding to cover relocation costs, except that PHAs may use Administrative Fee Reserves to pay for relocation expenses, after all other administrative expenses are satisfied and the relocation benefits is consistent with state and local law.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Use of Administrative Fee Reserves for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR §982.155 and other official HUD issuances. The acquisition of real property for a PBV project is subject to the URA and 49 CFR Part 24, subpart B. It is the responsibility of the PHA to ensure that the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR §983.8]

PHAs must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR §5.105(a). In addition, the PHA must comply with the PHA's Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR §903.7(o).

PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW

PHAs must describe the procedures for owner submission of proposals and for selection of PBV proposals. [24 CFR §983.51] Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR §§983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR §983.56, FR Notice 11/24/08] and meets the site selection standards. [24 CFR §983.57] PHAs may not commit PBVs until or unless the proposal selection requirements are followed, as defined in 24 CFR §983.51. [Notice PIH 2011-54]

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR §983.51(b)]

PHAs must select PBV proposals in accordance with the PHA's selection procedures by either one of the following two methods.

- PHA request for PBV Proposals. PHAs may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA's request. PHAs may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

- PHAs may select a proposal that was previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state or local government housing program, subject to a competition in accordance with the requirements of the applicable program, community development program or supportive services program that requires competitive selection of proposals, e.g. HOME and LIHTC units, for proposals selected in accordance with the 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Solicitation and Selection of PBV Proposals [24 CFR §983.51(c)]
The PHA's procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA's request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

PHA Policy
HACLB Request for Proposals for Rehabilitated and Newly Constructed Units
HACLB will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in local newspapers of general circulations and local trade journals. In addition, HACLB will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

HACLB will publish its advertisement in the newspapers and trade journals for at least one day per week for three consecutive weeks. The advertisement will specify the number of units HACLB estimates that it will be able to assist under the funding HACLB is making available. Proposals will be due in HACLB office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to HACLB by the published deadline date and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

HACLB will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers HACLB goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Projects with less than 25 percent of assisted housing units will be rated higher than projects with 25 percent or more of assisted housing units. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, HACLB will rate partially assisted projects on the percent of assisted units. Projects with the lowest percent of assisted units will receive the highest score.

PHA Requests for Proposals for Existing Housing Units
PHAs will advertise its request for proposals (RFP) for existing housing in the local newspapers and trade journals.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

In addition, PHAs will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

PHAs will periodically publish its advertisement in the newspapers and trade journals for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based Voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers the PHA's goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Extent to which units are occupied by families that are eligible to participate in the PBV program.

<u>PHA Selection of Proposals Subject to a Previous Competition under a Federal, State or Local Housing Assistance Program</u>

PHAs will accept proposals for PBV assistance from owners 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.

PHAs may periodically advertise that the opportunity to submit proposals in local newspapers and trade journals.

In addition to or in place of advertising, PHAs may also directly contact specific owners that have already been selected for Federal, state or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. PHAs will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers HACLB goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community or Renewal Community.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA-owned Units [24 CFR §§983.51(e) and 983.59]
A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that PHA-owned units were appropriately selected based on the selection procedures specified in the PHA's Administrative Plan. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA's proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of PHA-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, Housing Quality Standards inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the housing unit of general local government for the PHA's jurisdiction (unless the PHA is itself the housing unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

PHA Policy
HACLB has no agency owned units.

PHAs may only compensate the independent entity and appraiser from the PHA's ongoing administrative fee income (including amounts credited to the Administrative Fee Reserve). PHAs may not use other program receipts to compensate the independent entity and appraiser for their services. The PHA, independent entity and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

PHA's Notice of Owner Selection [24 CFR §983.51(d)]
PHAs must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

PHA Policy
Within fifteen (15) business days of HACLB making the selection, HACLB will notify the selected owner in writing of the owner's selection for the PBV program. HACLB will also notify unselected owners in writing that submitted proposals and advise such owners of the name of the selected owner.

In addition, HACLB will publish a notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals HACLB used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. HACLB will also post the notice of owner selection on its electronic web site.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

HACLB will make available to any interested party its rating and ranking sheets and documents that identify HACLB basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. HACLB will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

HACLB will make these documents available for review at HACLB during normal business hours. The cost for reproduction of allowable documents will be $.10 per page.

17-II.C. HOUSING TYPE [24 CFR §983.52]
PHAs may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a Housing Assistance Payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of the PHA's selection, the housing units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

PHAs must decide what housing type, new construction, rehabilitation or existing housing, will be used to develop project-based housing. The PHA's choice of housing type must be reflected in the solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERFTAIN UNITS

Ineligible Housing Types [24 CFR §983.53]
PHAs may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP Contract or HAP Contract for a unit occupied by a family ineligible for participation in the PBV program.

Subsidized Housing [24 CFR §983.54]
A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except PHAs may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR §983.55, FR Notice 11/24/08 and FR Notice 7/9/10]

PHAs may provide PBV assistance only in accordance with HUD's subsidy layering regulations [24 CFR §4.13] and other requirements. The Subsidy Layering Review is intended to prevent excessive public assistance by combining (layering) Housing Assistance Payment subsidy under the PBV program with other governmental housing assistance from federal, state or local agencies, including assistance such as tax concessions or tax credits.

PHAs must submit the necessary documentation to HUD for a Subsidy Layering Review. Except in cases of HAP Contracts for existing structures or if such reviews have been conducted by the applicable state and local agencies (defined by HUD as qualified Housing Credit Agencies), PHAs may not select or enter into an agreement to enter into a HAP Contract until HUD or an independent entity approved by HUD, has conducted any required Subsidy Layering Review and determined that the PBV assistance is in accordance with HUD's subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct Subsidy Layering Reviews in compliance with the *Federal Register* notice published July 9, 2010.

The HAP Contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP Contract) any public assistance for acquisition, development or operation of the housing other than assistance disclosed in the Subsidy Layering Review.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR §983.56(a), FR Notice 11/24/08]

In general, PHAs may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP Contract to provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP Contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Exceptions to 25 Percent per Project Cap [24 CFR §983.56(b), FR Notice 11/24/08]
Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in that are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).

A PHA must include the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided in its Administrative Plan. It is not necessary that the services be provided at or by the project, if the services are approved. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

A housing unit continues to count as an excepted unit for as long as the family resides in the housing unit, if, the family received Family Self-Sufficiency (FSS) supportive services or any other supportive services as defined in the PHA's Administrative Plan, at the time of initial tenancy and while a resident of an excepted unit, and successfully completes an FSS Contract of Participation or the supportive services requirement.

PHAs must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA's Administrative Plan must state the form and frequency of such monitoring.

PHA Policy
HACLB will provide PBV assistance for excepted units.

Promoting Partially-Assisted Buildings [24 CFR §983.56(c)]
A PHA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP Contract than residential units. [24 CFR §983.3]

A PHA may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multi-family building containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units or the PHA may establish a per-building cap of less than 25 percent.

PHA Policy:
HACLB will provide assistance for excepted units.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements and HQS Site Standards [24 CFR §983.57(b)]

PHAs may not select a proposal for existing, newly constructed or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP Contract or HAP Contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR §903 and the PHA's Administrative Plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations and Executive Orders and that the site meets HQS site and neighborhood standards at 24 CFR §982.401(l).

PHA Policy

It is HACLB's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, HACLB will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, HACLB will grant exceptions to the 20 percent standard when HACLB determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local or federal dollars invested in the area;
- A census tract where new market rate units are being developed when 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR §983.57(d)]
PHAs may not enter into an agreement to enter into a HAP Contract nor enter into a HAP Contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR §983.57(e)]
In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR §983.58]

PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR Parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. §4321 et seq.). PHAs may not enter into an agreement to enter into a HAP Contract nor enter into a HAP Contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR Part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR §58.5.

PHAs may not enter into an agreement to enter into a HAP Contract or a HAP Contract with an owner and the PHA, the owner and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

PHAs must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. PHAs must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special Housing Quality Standards that apply to the PBV program, housing accessibility for persons with disabilities and special procedures for conducting Housing Quality Standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR §983.101]

Housing Quality Standards (HQS) for the tenant-based program, including those for Special Housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental and the Homeownership option do not apply because these housing types are not assisted under the PBV program. The physical condition standards at 24 CFR §5.703 do not apply to the PBV program.

Lead-Based Paint [24 CFR §983.101(c)]

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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§794) and implementing regulations at 24 CFR Part 8. PHAs must ensure that the percentage of accessible dwelling units complies with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§794), as implemented by HUD's regulations at 24 CFR 8, Subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR §100.205, as applicable. [24 CFR §983.102]

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR §983.103(a)]

PHAs must examine the proposed site before the proposal selection date. If the housing units to be assisted already exist, the PHA must inspect all the housing units before the proposal selection date and must determine whether the housing units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP Contract until the housing units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR §983.103(b)]

PHAs must inspect each contract unit before execution of the HAP Contract. PHAs may not enter into a HAP Contract covering a unit until the housing unit fully complies with HQS.

Turnover Inspections [24 CFR §983.103(c)]

Before providing assistance to a new family in a contract unit, the PHA must inspect the housing unit. PHAs may not provide assistance on behalf of the family until the housing unit fully complies with HQS.

Biennial Inspections [24 CFR §983.103(d)]

At least biennially during the term of the HAP Contract, PHAs must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

> PHA Policy
>
> HACLB will inspect the required number of PBV units. At HACLB's discretion, HACLB may inspect additional units.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, PHAs must re-inspect 100 percent of the contract units in the building.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Other Inspections [24 CFR §983.103(e)]
PHAs must inspect contract units when needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities and other services in accordance with the HAP Contract. PHAs must take into account complaints and any other information coming to its attention in scheduling inspections.

PHAs must conduct follow-up inspections needed to determine if the owner or, if applicable the family, has corrected HQS violation(s) to determine the basis for exercise of contractual and other remedies for owner or family HQS violation(s).

In conducting the PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. OVERVIEW [24 CFR §983.151]
There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not, at a later date, be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO A HAP CONTRACT
In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP Contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD. [24 CFR §983.152(a)]

In the Agreement, the owner agrees to develop the PBV contract units to comply with HQS and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP Contract with the owner for the contract units. [24 CFR §983.152(b)]

Content of the Agreement [24 CFR §983.152(c)]
At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- An indication of whether or not the design and construction requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, when determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture or design over and above HQS.

Execution of the Agreement [24 CFR §983.153, FR Notice 11/24/08]
The Agreement must be executed promptly after the PHA notice of proposal selection to the selected owner. Generally, the PHA may not enter into the Agreement with the owner until the Subsidy Layering Review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a Subsidy Layering Review in the case of a HAP Contract for an existing structure or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

> PHA Policy
> HACLB will enter into the Agreement with the owner within fifteen (15) business days of receiving both environmental approval and notice that subsidy layering requirements have been met and before construction or rehabilitation work is started.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR §983.154(b)]
If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR Part 5 and other applicable federal labor relations laws and regulations. the PHA must monitor compliance with labor standards.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Equal Opportunity [24 CFR §983.154(c)]
The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR Part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR §§983.154(d) and (e)]
The Agreement and HAP Contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP Contract or HUD regulations.

17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR §983.155(b)]
At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

> PHA Policy
> HACLB will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. HACLB will specify any additional documentation requirements in the Agreement to enter into HAP Contract.

PHA Acceptance of Completed Units [24 CFR §983.156]
Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. the PHA must also determine if the owner has submitted all required evidence of completion.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP Contract.

If the PHA determines the work was completed in accordance with the Agreement and the owner has submitted all required evidence of completion, the PHA will submit the HAP Contract for execution by the owner and then execute the HAP Contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW [24 CFR §982.202]

The PHA must enter into a HAP Contract with an owner for units that receive PBV assistance. The purpose of the HAP Contract is to provide Housing Assistance Payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP Contract term. The HAP Contract must be in the form required by HUD.

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR §983.203]

The HAP Contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known) and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided due to program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR Part 8;
- The HAP Contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP Contract term.

Execution of the HAP Contract [24 CFR §983.204]

PHAs may not enter into a HAP Contract until each contract unit has been inspected and the PHA has determined that the housing unit complies with the Housing Quality Standards (HQS).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

For existing housing, the HAP Contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP Contract must be executed after the PHA has inspected the completed units and has determined that the housing units have been completed in accordance with the agreement to enter into HAP and the owner furnishes all required evidence of completion.

PHA Policy
For existing housing, the HAP Contract will be executed within fifteen (15) business days of HACLB's determination that all units have passed HQS.

For rehabilitated or newly constructed housing, the HAP Contract will be executed within fifteen (15) business days of HACLB's determination that the housing units have been completed, in accordance with the agreement to enter into HAP, all units meet HQS and the owner has submitted all required evidence of completion.

Term of HAP Contract [FR Notice 11/24/08]
PHAs may enter into a HAP Contract with an owner for an initial term of no less than one year and no more than 15 years.

PHA Policy
The term of all PBV HAP Contracts will be negotiated with the owner on a case-by-case basis.

At any time before expiration of the HAP Contract, the PHA may extend the term of the contract for an additional term of up to 15 years if the PHA determines an extension is appropriate to continue providing affordable housing or to expand housing opportunities. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD.

PHA Policy
When determining whether or not to extend an expiring PBV contract, HACLB will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP Contract and lease(s);
- Whether the location of the housing units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Termination by the PHA [24 CFR §983.205(c)]
The HAP Contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations and of funding under the ACC from such appropriations, to make full payment of Housing Assistance Payments payable to the owner for any contract year in accordance with the terms of the HAP Contract.

If it is determined that there may not be sufficient funding to continue Housing Assistance Payments for all contract units and for the full term of the HAP Contract, the PHA may terminate the HAP Contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR §983.205(d)]
If, in accordance with program requirements. the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP Contract term, the owner may terminate the HAP Contract by giving notice to the PHA. In this case, assisted families must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR §982.206]

Not less than one year before the HAP Contract terminates or if the owner refuses to renew the HAP Contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Remedies for HQS Violations [24 CFR §982.207(b)]
PHAs may not make any HAP payment to the owner for a contract unit during any period in which the housing unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP Contract for any or all of the contract units. Available remedies include termination of Housing Assistance Payments, abatement or reduction of Housing Assistance Payments, reduction of contract units and termination of the HAP Contract.

> PHA Policy
> HACLB will abate and terminate PBV HAP Contracts for non-compliance with HQS in accordance with the policies used in the tenant-based Voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR §982.206(a)]
At the PHA's discretion and subject to all PBV requirements, the HAP Contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the housing unit.

Addition of Contract Units [24 CFR §982.206(b)]
At the PHA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the PHA's PBV program, a HAP Contract may be amended during the three-year period following the execution date of the HAP Contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

> PHA Policy
> HACLB will consider adding contract units to the HAP Contract when HACLB determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:
>
> - The local housing inventory is reduced due to a disaster (either due to loss of housing units or an influx of displaced families); and
> - Voucher holders are having difficulty finding units that meet program requirements.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR §982.206(c) and 983.302(e)]

The HAP Contract year is the period of 12 calendar months preceding each annual anniversary of the HAP Contract during the HAP Contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP Contract.

The annual anniversary of the HAP Contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP Contract, even in cases when contract units are placed under the HAP Contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR §983.209]

When an owner executes a HAP Contract certification is made that at such execution and at all times during the term of the HAP Contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP Contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA and the lease is in accordance with the HAP Contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the assisted unit for which the owner is receiving HAP and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP Contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- The family does not own or have any interest in the contract unit; and
- 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.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR §§983.101(e) 207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment and utilities specified in the HAP Contract in the lease. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building, as established by the owner.

PHAs may elect to establish additional requirements for quality, architecture or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP Contract and the HAP Contract. These requirements must be in addition to, not in place of, compliance with HQS.

> PHA Policy
>
> HACLB will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. HACLB will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP Contract and the HAP Contract.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Vacancy Payments [24 CFR §983.352(b)]
At the discretion of the PHA, the HAP Contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

> PHA Policy
> HACLB will decide on a case-by-case basis if HACLB will provide vacancy payments to the owner. The HAP Contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. OVERVIEW
Many of the provisions of the Housing Choice Voucher regulations [24 CFR §982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR §983.251(a)-(b)]
PHAs may select families for the PBV program from those who are participants in the PHA's tenant-based Voucher program and from those who have applied for admission to the Voucher program. For Voucher participants, eligibility was determined at original admission to the Voucher program and does not need to be re-determined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

PBV applicants must meet the same eligibility requirements as applicants for the tenant-based HCV program. (see Chapter 3)

> PHA Policy
> HACLB will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3. Families must also be eligible for the specific developments (excepted units), requiring the supportive services provided through the development.

In-Place Families [24 CFR §983.251(b)]
An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If an existing unit or a unit requiring rehabilitation is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA's waiting list. Once the family's eligibility is determined (PHAs may deny assistance to an in-place family for the grounds specified in 24 CFR §982.552 and §982.553), the family must be given an absolute selection preference and the PHA must refer the family to the project owner for an appropriately sized PBV unit. Eligible in-place PBV admissions are not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR §983.251(c)]
PHAs may establish a separate waiting list for PBV units or the same waiting list may be used for both tenant-based and PBV assistance. PHAs may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

PHA Policy
HACLB will establish and manage separate waiting lists for individual projects or buildings that receive PBV assistance. HACLB currently has waiting lists for the following PBV projects:

- American Gold Star Manor
- Anchor Place
- Cabrillo Gateway
- Long Beach & 21st
- The Palace Apartments
- Sara's Apartments

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR §983.251(c)]
Applicants for PBV assistance must be selected from the PHA's waiting list. PHAs may establish selection criteria or preferences for occupancy of particular PBV units. PHAs may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR §983.251(c)(6)]
At least 75 percent of admissions to the PHA's tenant-based and Project-Based Voucher programs during the fiscal year from the waiting list must be extremely low-income. Income targeting applies to total admissions to both programs.

Units with Accessibility Features [24 CFR §983.251(c)(7)]
When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Preferences [24 CFR §983.251(d) and FR Notice 11/24/08]
PHAs may use the same selection preferences that are used for the tenant-based Voucher program, establish selection criteria or preferences for the PBV program as a whole or for occupancy of particular PBV developments or units. PHAs must provide an absolute selection preference for eligible in-place families. (Section 17-VI.B)

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to program participants:

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with more than 25 percent of the housing units receiving project-based assistance because those projects include "excepted units" (units specifically made available for elderly or disabled families or families receiving supportive services), the PHA must give preference to such families when referring families to these units. [24 CFR §983.261(b)]

PHA Policy
HACLB will utilize the following criteria for each project's waiting list:

1. HACLB will use the same selection preferences that are used for the tenant-based Housing Choice Voucher program;
2. HACLB will provide a selection preference when required by HUD regulation, e.g. eligible in-place families, qualifying families for "excepted units", persons with mobility impairments for accessible units;

	Preference Title	**Points**
a.	Eligible In-place Families	300
b.	Qualifying Families for "Excepted Unit"	300
c.	Persons with Mobility Impairments for Accessible Units	300

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

3. Additional site specific preferences, as required and/or administered by the individual project, for example:

	Property Name	Preference Title	Points
a.	American Goldstar Manor	Gold Star Parent - parent of a veteran who was lost in any war or conflict.	200
b.	Anchor Place	Veterans Affairs Supportive Housing (VASH)	200
c.	Palace Apartments	Aged Out Foster Youth or Emancipated Youth from Foster Care Within the Last Five Years	200

4. If determined ineligible for HACLB's Project-Based Voucher program and/or the project's qualifying criteria, the applicant will be processed for denial.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR §983.251(e)(3)]
The PHA is prohibited from taking any of the following actions against a family who has applied for, received or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based Voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's waiting list placement based on preference, date and time of application or other factors affecting selection with the PHA's selection policy;
- Remove the applicant from the tenant-based Voucher waiting list.

Disapproval by Owner [24 CFR §983.251(e)(2)]
If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based Voucher waiting list.

Acceptance of Offer [24 CFR §983.252]

Family Briefing
When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the Total Tenant Payment for a family, the family obligations under the program and applicable fair housing information.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Persons with Disabilities
If an applicant's head of household or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available, as discussed in Chapter 2.

In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency
The PHA should take reasonable steps to assure meaningful access by persons with Limited English Proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166. (see Chapter 2)

17-VI.F. OWNER SELECTION OF TENANTS [24 CFR §983.253(a)(2)-(3)]
The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify a rejected applicant of the grounds for a rejection in writing.

Leasing [24 CFR §983.253(a)]
During the term of the HAP Contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's Subsidy Standards.

Filling Vacancies [24 CFR §983.254(a)]
The owner must promptly notify the PHA of any vacancy or expected vacancy. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies.

> PHA Policy
> The owner must notify HACLB in writing (mail, fax or e-mail) within five (5) business days of learning about any vacancy or expected vacancy. HACLB will make every reasonable effort to refer families to the owner within fifteen (15) business days of receiving such notice from the owner.

Reduction in Contract Units Due to Vacancies [24 CFR §983.254(b)]
If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP Contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

If any contract units have been vacant for 120 days, HACLB 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. HACLB will provide the notice to the owner within fifteen (15) business days of the 120th day of the vacancy. The amendment to the HAP Contract will be effective the 1st day of the month following the date of HACLB's notice.

17-VI.G. TENANT SCREENING [24 CFR §983.255]

PHA Responsibility

PHAs are not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, PHAs may opt to screen applicants for family behavior or suitability for tenancy and base HCV eligibility on such screening.

PHA Policy

HACLB will not conduct screening to determine a PBV applicant family's suitability for tenancy.

PHAs must provide the owner with an applicant family's current and prior address (as shown in the PHA records) and the name and address (if known by the PHA) of the family's current owner and any prior owners.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. the PHA must provide applicant families a description of PHA Policy on providing information to owners and the PHA must give the same types of information to all owners.

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

PHA Policy

HACLB will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before.

HACLB will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Owner Responsibility
The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and
- Compliance with other essential conditions of tenancy.

PART VII: OCCUPANCY

17-VII.A. OVERVIEW
After an applicant is selected from the waiting list, determined eligible by HACLB, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the housing unit will begin.

17-VII.B. LEASE [24 CFR §983.256]
The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR §983.256(b)]
The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required Tenancy Addendum. The Tenancy Addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

> PHA Policy
> HACLB will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR §983.256(c)]
The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- The unit rented (address, apartment number, if any and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture or supportive services.

Tenancy Addendum [24 CFR §983.256(d)]
The Tenancy Addendum in the lease must state:
- The program tenancy requirements;
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required Tenancy Addendum must be included in the lease. The terms of the Tenancy Addendum prevail over other lease provisions.

Initial Term and Lease Renewal [24 CFR §§983.256(f) and 983.257(b)]
The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause," or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the PHA must provide the family with a tenant-based Voucher and remove the housing unit from the PBV HAP Contract.

Changes in the Lease [24 CFR §983.256(e)]
If the tenant and owner agree to any change in the lease, the change must be in writing and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the current lease. The PHA must re-determine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The re-determined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR §983.257]
With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based Voucher program. (see Section 12-III.B. and 24 CFR §982.310)

In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason or a desire to use the housing unit for personal or family use or other non-residential purpose.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Non-Compliance with Supportive Services Requirement [24 CFR §983.257(c), FR Notice 11/24/08]
If a family is living in a unit that is excepted from the 25 percent per project cap on project-basing because of participation in a supportive services program, e.g. Family Self-Sufficiency, and the family fails to complete the supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

Tenant Absence from the Unit [24 CFR §983.256(g) and 24 CFR §982.312(a)]
The owner may specify in the lease a maximum period of tenant absence from the housing unit that is shorter than the maximum period permitted by PHA Policy. According to program requirements, the family's assistance must be terminated for absences from the housing unit for more than 180 consecutive days.

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 the lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rent 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 housing unit shall be removed from the HAP Contract, pursuant to 24 CFR §983.211.

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

Security Deposits [24 CFR §983.258]
The owner may collect a security deposit from the tenant. HACLB may prohibit security deposits in excess of private market practice or in excess of amounts charged by the owner to unassisted tenants.

> PHA Policy
> HACLB will allow the owner to collect a security deposit amount the owner determines is appropriate.

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 housing 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 balance to the tenant.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

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. PHAs have no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied and Accessible Units [24 CFR §983.259]
If the PHA determines that a family is occupying the wrong sized unit based on Subsidy Standards or a unit with accessibility features that the family does not require, and the housing unit is needed by a family that requires the features, the PHA must promptly notify the family and the owner of this determination and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

> PHA Policy
> HACLB will notify the family and the owner of the family's need to move within fifteen (15) business days of the determination. HACLB will offer the family the following types of continued assistance in the following order, based on availability:
>
> - PBV assistance in the same building or project;
> - PBV assistance in another project; and
> - Tenant-based Voucher assistance.

If the PHA offers the family a tenant-based Voucher, the PHA must terminate the Housing Assistance Payments for the wrong-sized/accessible unit at expiration of the term of the family's Voucher, including any extension granted by the PHA.

If the PHA offers the family another form of assistance that is not a tenant-based Voucher and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA or both, the PHA must terminate the Housing Assistance Payments at the expiration of a reasonable time period.

> PHA Policy
> When HACLB 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, HACLB will terminate the Housing Assistance Payments at the expiration of this 30-day period.
>
> HACLB 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Family Right to Move [24 CFR §983.260]
The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a Voucher or other comparable tenant-based rental assistance. If a Voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for 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.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP

[24 CFR §983.261, FR Notice 11/24/08, [24 CFR §983.56]
PHAs may not pay housing assistance under a PBV HAP Contract for more than 25 percent of the number of dwelling units in a project unless the housing units are:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving at least one qualifying supportive service, as defined by the PHA.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS Contract of Participation or the supportive services requirement, the housing unit continues to count as an excepted unit for as long as the family resides in the housing unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception, e.g. the family does not successfully complete supportive services requirements or due to a change in family composition the family is no longer elderly or disabled, must vacate the housing unit within a reasonable period of time established by the PHA and the PHA must cease paying Housing Assistance Payments on behalf of the non-qualifying family.

If the family fails to vacate the housing unit within the established time, the housing unit must be removed from the HAP Contract, unless the project is partially assisted and it is possible for the HAP Contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The Housing Assistance Payments for a family residing in an excepted unit that is not in compliance with their family obligations to comply with supportive services requirements must be terminated by the PHA.

PHA Policy

HACLB will allow families who initially qualified for an excepted unit to remain when circumstances change beyond the remaining family members' control.

In all other cases, when HACLB determines that a family no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception, HACLB will provide written notice to the family and owner within fifteen (15) business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, HACLB will terminate the Housing Assistance Payments at the expiration of this 30-day period.

HACLB 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.

HACLB may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to HACLB, the HAP Contract will be amended to reduce the total number of units under contract.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP Contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP Contract term.

During the term of the HAP Contract, the rent to owner is re-determined at the owner's request in accordance with program requirements and at such time that there is a ten percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR §983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable Fair Market Rent (or any HUD-approved exception Payment Standard) for the housing unit bedroom size minus any Utility Allowance;
- The reasonable rent; or
- The rent requested by the owner.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Certain Tax Credit Units [24 CFR §983.301(c), FR Notice 11/24/08]
For certain tax credit units, the rent limits are determined differently than for other PBV units. The different limits apply to contract units that meet the following criteria:

- The unit receives a low-income housing tax credit under the IRS Code of 1986;
- The unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a PHA-determined amount (not to exceed 110 percent of the Fair Market Rent or any approved exception Payment Standard);

For contract units that meet all of the above 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.

However, PHAs are permitted to use the higher Section 8 rent for a tax credit unit if the tax credit rent is less than the amount that would be permitted under Section 8. In these cases, Section 8 rent reasonableness requirements must continue to be met.

Definitions
Qualified census tract is a census tract in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income or when the poverty rate is at least 25 percent and is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the building that also receives the low-income housing tax credit, but does not have any additional rental assistance, e.g. tenant-based Voucher assistance.

Reasonable Rent [24 CFR §§983.301(e) and 983.302(c)(2)]
PHAs must determine reasonable rent in accordable with 24 CFR §982.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases when the PHA has elected within the HAP Contract not to reduce rents below the initial rent to owner.

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 is 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

If the PHA has not elected within the HAP Contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

PHA Policy
HACLB will elect, within the HAP Contract, not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR §983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent results in a rent below the initial rent, HACLB will use the higher initial rent to owner amount.

Use of FMRs, Exception Payment Standards and Utility Allowances
[24 CFR §983.301(f)]
When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the Utility Allowance Schedule in effect at execution of the HAP Contract. When re-determining the rent to owner, the PHA must use the most recently published FMR and the Utility Allowance Schedule in effect at the time of redetermination.

At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP Contract or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception Payment Standard amount under the tenant-based Voucher program also applies to the Project-Based Voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program. Likewise, the PHA may not establish or apply different Utility Allowance amounts for the PBV program. The same Utility Allowance Schedule applies to both the tenant-based and Project-Based Voucher programs.

PHA Policy
Upon written request by the owner, HACLB will consider using the FMR or Utility Allowances in effect during the 30-day period before the start date of the HAP or redetermination of rent. The owner must explain the need to use the previous FMRs or Utility Allowances and include documentation in support of the request. HACLB will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, HACLB may decide to use the FMR or Utility Allowances in effect during the 30-day period before the start date of the HAP or redetermination of rent, if HACLB determines it is necessary due to HACLB budgetary constraints.

Redetermination of Rent [24 CFR §983.302]
PHAs must re-determine the rent to owner upon the owner's request or when there is a ten percent or greater decrease in the published FMR.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP Contract. (see Section 17-V.D)

The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments, e.g. adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the housing units which have resulted from substantial general increases in real property taxes, utility rates or similar costs.

> PHA Policy
>
> An owner's request for a rent increase must be submitted to HACLB 60 days prior to the anniversary date of the HAP Contract and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP Contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception Payment Standard or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except when the PHA has elected within the HAP Contract to not reduce rents below the initial rent under the initial HAP Contract.

Notice of Rent Change

The rent to owner is re-determined by written notice by the PHA to the owner specifying the amount of the re-determined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP Contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP Contract.

> PHA Policy
>
> HACLB will provide the owner and the family with at least 30 days written notice of any change in the amount of rent to owner.

17-VIII.C. REASONABLE RENT [24 CFR §982.303]

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 housing unit as determined by the PHA.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Required Rent Reasonable Determinations
PHAs must re-determine reasonable rent for a unit receiving PBV assistance when:

- There is a ten percent or greater decrease in the published FMR in effect 60 days before the contract anniversary date, as compared with the FMR that was in effect one year before the contract anniversary date;
- the PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP Contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent
The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the housing unit, as well as the amenities, housing services maintenance and utilities to be provided by the owner.

Comparability Analysis
For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that receive project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the HAP, based on the analyses may not have any direct or indirect interest in the property.

Owner Certification of Reasonable Rent
By accepting monthly Housing Assistance Payments, the owner certifies that the rent to owner is not more than rent charged for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL
In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance. (Section 17-II.D)

Other Subsidy [24 CFR §983.304]
At its discretion, the PHA may reduce the initial rent to owner due to other governmental subsidies, including grants and other subsidized financing. For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS (HAP) [24 CFR §983.351]

During the term of the HAP Contract, PHAs must make Housing Assistance Payments to the owner in accordance with the terms of the HAP Contract. During the term of the HAP Contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The Housing Assistance Payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, PHAs may not make any Housing Assistance Payment to the owner for any month after the month the family moves out of the housing unit, even if household goods or property are left in the unit.

The amount of the Housing Assistance Payment is the rent to owner minus the tenant rent – the Total Tenant Payment minus the Utility Allowance.

In order to receive HAP, the owner must comply with all provisions of the HAP Contract. Unless the owner complies with all provisions of the HAP Contract, the owner does not have a right to receive Housing Assistance Payments.

17-IX.B. VACANCY PAYMENTS [24 CFR §983.352]

If an assisted family moves out of the housing unit, the owner may keep the Housing Assistance Payment for the calendar month when the family moves out. However, the owner may not keep the payment, if the PHA determines that the vacancy is the owner's fault.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

PHA Policy

If HACLB determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the Housing Assistance Payment, HACLB will notify the owner of the amount of Housing Assistance Payment that the owner must repay. HACLB will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP Contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the housing unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the housing unit was vacant during the period for which payment is claimed;
- The owner certifies that every reasonable action was taken to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

PHA Policy

If an owner's HAP Contract calls for vacancy payments to be made and the owner wishes to receive vacancy payments, the owner must properly notify HACLB of the vacancy, in accordance with Section 17-VI.F.

In order for a vacancy payment request to be considered, it must be made within ten (10) business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and HACLB may require documentation to support the request. If the owner does not provide the information requested by HACLB within ten (10) business days of HACLB's request, no vacancy payments will be made.

17-IX.C. TENANT RENT TO OWNER [24 CFR §982.353]

The tenant rent is the portion of the rent paid by the family. Tenant rent is determined by the PHA, in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA's notice.

The family is responsible for paying the tenant rent, i.e. Total Tenant Payment minus the Utility Allowance. The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for the contract unit. The tenant rent covers all housing services, maintenance, equipment and utilities to be provided by the owner.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent determined by the PHA and the owner must immediately return any excess payment to the tenant.

Tenant and PHA Responsibilities
The family is not responsible for the portion of rent to owner that is covered by the Housing Assistance Payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA. Likewise, the PHA is responsible for making the Housing Assistance Payment to the owner in accordance with the HAP Contract. The PHA is not responsible for paying tenant rent or any other claim by the owner, including damage to the housing unit.

The PHA may not use HAP or other program funds (including Administrative Fee Reserves) to pay any part of the tenant rent or other claims by the owner.

Utility Reimbursements
If the amount of the Utility Allowance exceeds the Total Tenant Payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

PHA Policy
HACLB will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR §983.354]

Meals and Supportive Services
With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner
The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF Annual Adjustment Factor (published by HUD in the Federal Register and used to compute annual rent adjustments)

ACC Annual Contributions Contract (ACC)

ADA Americans with Disabilities Act of 1990

BR Bedroom

CDBG Community Development Block Grant program

CFR Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")

CPI Consumer Price Index (published monthly by the Department of Labor as an inflation indicator)

EID Earned Income Disallowance

EIV Enterprise Income Verification

FDIC Federal Deposit Insurance Corporation

FHA Federal Housing Administration

FICA Federal Insurance Contributions Act (established Social Security taxes)

FMR Fair Market Rent

FR Federal Register

FSS Family Self-Sufficiency program

FY Fiscal Year

FYE Fiscal Year End

GAO Government Accountability Office

GR Gross Rent

HAP Housing Assistance Payment

HCV Housing Choice Voucher

HQS Housing Quality Standards

HUD Department of Housing and Urban Development

HUDCLIPS HUD Client Information and Policy System

IPA Independent Public Accountant

IRA Individual Retirement Account

IRS Internal Revenue Service

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

JTPA	Job Training Partnership Act
LBP	Lead-Based Paint
MSA	Metropolitan Statistical Area (established by the U.S. Census Bureau)
MTCS	Multi-Family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
MTW	Moving to Work
NOFA	Notice of Funding Availability
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PHA	Public Housing Agency
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment Standard
QHWRA	Quality Housing and Work Responsibility Act of 1998
REAC	(HUD) Real Estate Assessment Center
RFP	Request For Proposals
RFTA	Request For Tenancy Approval
RIGI	Regional Inspector General for Investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single Room Occupancy
SSA	Social Security Administration
SSI	Supplemental Security Income
TANF	Temporary Assistance for Needy Families
TPV	Tenant Protection Vouchers
TR	Tenant Rent
TTP	Total Tenant Payment
UA	Utility allowance
UIV	Upfront Income Verification
URP	Utility Reimbursement Payment
VAWA	Violence Against Women Reauthorization Act of 2013

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

***Absorption*.** In portability: the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

***Accessible*.** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

***Adjusted Income*.** Annual income, less allowable HUD deductions and allowances.

Administrative Fee. Fee paid by HUD to the PHA for administration of the program. (see 24 CFR §982.152)

Administrative Plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. (see 24 CFR §982.54)

***Admission*.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Amortization Payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual Contributions Contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the United States Housing Act of 1937 and the PHA agrees to comply with HUD requirements.

***Annual Income*.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (Applicant Family). A family that has applied for admission to a program and has not yet participated in the HCV program.

Area Exception Rent. An amount that exceeds the published FMR. (see 24 CFR §982.504(b))

***Assets*.** See *Net Family Assets.*

Auxiliary Aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

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 remain intact.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Budget Authority. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

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

***Child Care Expenses*.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

***Common Space*.** In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer Match. The automated comparison of databases containing records about individuals.

Confirmatory Review. An on-site review performed by HUD to verify the management performance of a PHA.

Congregate Housing. Housing for elderly persons or persons with disabilities that meets HQS for congregate housing - Special Housing type. (CFR §982.606–609)

***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.

Contiguous MSA. In portability (under subpart H of part 982): an MSA that shares a common boundary with the MSA of the initial PHA.

Continuously Assisted. An applicant is continuously assisted under the United States Housing Act of 1937 if the family is already receiving assistance under any United States Housing Act program when the family is admitted to the Voucher program.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Contract Authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR §982.619).

***Covered Families*.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating Violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

***Dependent*.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent Child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

***Disability Assistance Expenses*.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

***Disabled Family*.** A family whose head of household, cohead of household, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled Person. See *Person with Disabilities.*

Disallowance. Exclusion from annual income.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

***Displaced Family*.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic Violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

***Domicile*.** The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related Criminal Activity. As defined in 42 U.S.C. §1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. §802).

***Economic Self-sufficiency Program*.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. §607(d)). Also see 24 CFR §5.603(c).

***Elderly Family*.** A family whose head of household, cohead of household, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

***Elderly Person*.** An individual who is at least 62 years of age.

Eligible Family (family). A family that is income eligible and meets the other requirements of the United States Housing Act of 1937 and Part 5 of 24 CFR.

***Employer Identification Number (EIN)*.** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

***Evidence of Citizenship or Eligible Status*.** The documents that must be submitted as evidence of citizenship or eligible immigration status. (see 24 CFR §5.508(b))

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Extremely Low-income Family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (see [24 CFR §5.603)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair Market Rent (FMR)**.** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family**.** Includes, but is not limited to the following, and can be further defined in PHA policy.

Family includes, but is not limited to, the following, **regardless of actual or perceived sexual orientation, gender identity, or marital status:**

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
2. A group of persons residing together, and such group includes, but is not limited to:
   a. A family with or without children (a child who is temporarily away because of placement in foster care is considered a member of the family);
   b. An elderly family;
   c. A near-elderly family;
   d. A disabled family;
   e. A displaced family;
   f. The remaining member of a tenant family;

Family Rent to Owner. In the Voucher program, the portion of rent to owner paid by the family.

Family Self-Sufficiency Program (FSS program). The program established by a PHA in accordance with 24 CFR Part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. §1437u).

Family Share. The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR §982.515(a).

Family Unit Size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA Subsidy Standards.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

***Federal Agency*.** A department of the executive branch of the Federal Government.

***Foster Child Care Payment*.** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (see [24 CFR §5.603)

Funding Increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gender Identity. Gender identity means actual or perceived gender-related characteristics. (24 CFR §5.100)

Gross Rent. The sum of the rent to owner plus any utility allowance.

Group Home. A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR §982.610–614)

***Handicap*.** Any condition or characteristic that renders a person an individual with handicaps. (see *person with disabilities*)

HAP Contract. The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of Household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing Assistance Payment. The monthly assistance payment by a PHA, also known as "subsidy", which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing Agency (HA). See *Public Housing Agency.*

Housing Quality Standards (HQS). The HUD minimum quality standards for housing assisted under the Voucher program.

HUD. The U.S. Department of Housing and Urban Development.

Immediate Family Member. A spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Imputed Asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed Income. The HUD passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed $5,000.

Imputed Welfare Income. An amount of annual income that is not actually received by a family as a result of a welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

***Income*.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for Eligibility. Annual income.

Income Information. Information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

***Individual with Handicaps*.** See *Person with Disabilities.*

***Initial PHA*.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial Payment Standard. The payment standard at the beginning of the HAP contract term.

Initial rent to Owner. The rent to owner at the beginning of the HAP contract term.

Institution of Higher Education. An institution of higher education as defined in Title 20 U.S.C. §1001 and 1002. (see Exhibit 3-2)

***Jurisdiction*.** The area in which the PHA has authority under state and local law to administer the program.

***Landlord*.** Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

***Lease*.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

***Live-in Aide*.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

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

Local Preference. A preference used by the PHA to select among applicant families.

Low-income Family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low-incomes.

Manufactured Home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets HQS. (A special housing type: see 24 CFR §982.620 thru §982.621.)

Manufactured Home Space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. (see 24 CFR §982.622 thru §982.624)

***Medical Expenses*.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

***Minor*.** A member of the household other than the head or spouse, who is under 18 years of age.

Mixed Family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

***Monthly Adjusted Income*.** One twelfth of adjusted income.

***Monthly Income*.** One twelfth of annual income.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

***Near-elderly Family*.** A family whose head of household, 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.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

***Net Family Assets*.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under 24 CFR §5.609.
- In determining net family assets, PHAs shall include the value of any business or family assets disposed of for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding funding.

***Owner*.** Any person or entity with the legal right to lease or sublease a housing unit.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's Quality Control Sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see 24 CFR 985.3.

Participant (Participant Family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment Standard. The maximum monthly assistance payment for a family assisted in the Voucher program (before deducting the total tenant payment by the family).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Person with Disabilities. *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment, but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS, but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

***Portability*.** Renting a dwelling unit with a Section 8 Housing Choice Voucher outside the jurisdiction of the initial PHA.

***Premises*.** The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously Unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

***Private Space*.** In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

***Processing Entity*.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the "processing entity" is the "responsible entity."

Project Owner. The person or entity that owns the housing project containing the assisted dwelling unit.

***Public Assistance*.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

***Public Housing Agency (PHA)*.** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the United States Housing Act of 1937.

Qualified Family (under Earned Income Disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

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

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for TANF funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-provided that the total amount over a six-month period is at least $500.

Qualified Census Tract. With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

***Reasonable* Rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Reasonable Accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

***Receiving PHA*.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a Voucher and provides program assistance to the family.

***Recertification*.** See *Reexamination*.

***Reexamination*.** Term used by HUD for the process of documenting and verifying total family income to determine the family's share of rent and the Housing Assistance Payment for the next 12 months, if no additional changes are reported.

***Remaining Member of the Tenant Family*.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to Owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities paid for and provided by the owner.

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*).

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Residency Preference Area. The specified area where families must reside to qualify for a residency preference.

Responsible Entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 Covered Programs. All HUD programs which assist housing under Section 8 of the United States Housing Act of 1937, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended.

Section 214 Covered Programs. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up Charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Sexual Orientation. Sexual orientation means homosexuality, heterosexuality or bisexuality. (24 CFR §5.100)

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 thru §982.618)

Single Person. A person living alone or intending to live alone.

Single Room Occupancy Housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR §982.602–982.605)

Social Security Number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

Special Admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

***Special Housing Types*.** 24 CFR, Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified Welfare Benefit Reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

***State Wage Information Collection Agency (SWICA)*.** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy Standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

***Suspension*.** Stopping the clock on the term of a family's Voucher after the family submits a request for tenancy approval. If the PHA decides to allow extensions or suspensions of the Voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called *tolling.*

Tax Credit Rent. With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receives the low-income housing tax credit, but does not have any additional rental assistance, e.g. tenant-based voucher assistance.

Tenancy Addendum. For the Housing Choice Voucher program, the lease language required by HUD in the lease between the tenant and the owner.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.

***Tenant*.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Term of Lease. The amount of time a tenant agrees in writing to lease a dwelling unit.

***Total Tenant Payment (TTP)*.** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

***Unit*.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

***Utility Allowance*.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

***Utility Reimbursement*.** In the Voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

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.

Violent Criminal Activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(Housing Choice Voucher).* A document issued by a PHA to a family selected for admission to the Housing Choice Voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The Voucher also states obligations of the family under the program.

Voucher Holder. A family holding a Voucher with an unexpired term (search time).

Welfare Assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the Family Self-Sufficiency (FSS) program (984.103(b)), *welfare assistance* includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.

© Copyright 2018 Nan McKay & Associates
Unlimited copies may be made for internal use.