HOUSING ASSISTANCE DEPARTMENT

ADMINISTRATIVE PLANS

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Table of Contents

HOUSING CHOICE VOUCHER 1
INTRODUCTION 1
CHAPTER 1 4
OVERVIEW OF THE PROGRAM AND PLAN 4
INTRODUCTION 4
PART I: THE CDA 4
1-I.A. OVERVIEW 4
1-I.B. ORGANIZATION AND STRUCTURE OF THE CDA 4
1-I.C. CDA MISSION 5
1-I.D. THE CDA'S PROGRAMS 5
1-I.E. THE CDA'S COMMITMENT TO ETHICS AND SERVICE 5
PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM 6
1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM 6
1-II.B. HCV PROGRAM BASICS 7
1-II.C. THE HCV PARTNERSHIPS 8
1-II.D. APPLICABLE REGULATIONS 11
PART III: THE HCV ADMINISTRATIVE PLAN 12
1-III.A. OVERVIEW AND PURPOSE OF THE PLAN 12
1-III.B. CONTENTS OF THE PLAN [24 CFR 982.54] 12
1-III.C. ORGANIZATION OF THE ADMINISTRATIVE PLAN 14
1-III.D. UPDATING AND REVISING THE ADMINISTRATIVE PLAN 14
CHAPTER 2 1
FAIR HOUSING AND EQUAL OPPORTUNITY 1
INTRODUCTION 1
PART I: NONDISCRIMINATION 1
2-I.A. OVERVIEW 1
2-I.B. NONDISCRIMINATION 2
2-I.C. DISCRIMINATION COMPLAINTS 3
PART II: POLICIES RELATED TO PERSONS WITH DISABIILTIES 5
2-II.A. OVERVIEW 5
2-II.B. DEFINITION OF REASONABLE ACCOMMODATION 6
2-II.C. REQUEST FOR AN ACCOMMODATION 6
2-II.D. VERIFICATION OF DISABILITY 6

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION 7
2.II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS 8
2-II.G. PHYSICAL ACCESSIBILITY 8
2-II.H. DENIAL OR TERMINATION OF ASSISTANCE 9
PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP) 9
2-III.A. OVERVIEW 9
2-III.B. ORAL INTERPRETATION 10
2-III.C. WRITTEN TRANSLATION 10
2-III.D. IMPLEMENTATION PLAN 10
EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201] 11
EXHIBIT 2-2: LIMITED ENGLISH PROFICIENCY PLAN 12
CHAPTER 3 1
ELIGIBILITY 1
INTRODUCTION 1
PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS 1
3-I.A. OVERVIEW 1
3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.403; FR Notice 02/03/12; Notice PIH 2014-20 and FR Notice 2/14/23] 2
3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY 2
3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)] 3
3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT 4
3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603] 4
3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29] 4
3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 02/03/12] 5
3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12] 5
3-I.J. GUESTS [24 CFR 5.100] 5
3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603] 6
3-I.L. ABSENT FAMILY MEMBERS 6
3-I.M. LIVE-IN AIDE 7
PART II: BASIC ELIGIBILITY CRITERIA 8
3-II.A. INCOME ELIGIBILITY AND TARGETING 8
3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E] 10
3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24] 12

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24CFR 5.230, 24 CFR 5.232, and HCV GB, p. 5-13] .12
3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 and FR Notice 4/10/06, FR Notice 9/21/16]....13
3-II.F. EIV SYSTEM SEARCHES [EIV FAQs; EIV FAQ's; EIV System Training 9/30/20 and Notice PIH 2023-27] ...16
PART III: DENIAL OF ASSISTANCE....17
3-III.A. OVERVIEW....17
3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a) and 24 CFR 982.552(b)(6)]....19
3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]....20
3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE....21
3-III.E. SCREENING....23
3-III.F. CRITERIA FOR DECIDING TO DENY ASSISTANCE....24
3-III.G. NOTICE OF ELIGIBILITY OR DENIAL....26
3-III.H. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT DATING VIOLENCE, STALKING, HUMAN TRAFFICKING....27
EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES....29
EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION [20 U.S.C. 1001 and 1002]....31
CHAPTER 4....1
APPLICATIONS, WAITING LIST AND TENANT SELECTION....1
INTRODUCTION....1
PART I: THE APPLICATION PROCESS....2
4-I.A. OVERVIEW....2
4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]....2
4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS....2
4-I.D. PLACEMENT ON THE WAITING LIST....3
PART II: MANAGING THE WAITING LIST....3
4-II.A. OVERVIEW....3
4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]....3
4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]....4
4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]....4
4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES....5
4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]....5
PART III: SELECTION FOR HCV ASSISTANCE....6
4-III.A. OVERVIEW....6
4-III.B. SELECTION AND HCV FUNDING SOURCES....7
4-III.C. SELECTION METHOD....7

4-III.D. NOTIFICATION OF SELECTION 10
4-III.E. THE APPLICATION INTERVIEW 10
4-III.F. COMPLETING THE APPLICATION PROCESS 11
CHAPTER 5 1
BRIEFINGS AND VOUCHER ISSUANCE 1
INTRODUCTION 1
PART I: BRIEFINGS AND FAMILY OBLIGATIONS 1
5-I.A. OVERVIEW 1
5-I.B. BRIEFING [24 CFR 982.301] 1
5-I.C. FAMILY OBLIGATIONS 6
PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE 9
5-II.A. OVERVIEW 9
5-II.B. DETERMINING FAMILY VOUCHER SIZE [24 CFR 982.402] 9
5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS 10
5-II.D. VOUCHER ISSUANCE [24 CFR 982.302] 11
5-II.E. VOUCHER TERM AND EXTENSIONS 12
CHAPTER 6.A. 1
INCOME AND SUBSIDY DETERMINATIONS 1
INTRODUCTION 1
PART I: ANNUAL INCOME 2
6-I.A. OVERVIEW 2
6-I.B. HOUSEHOLD COMPOSITION AND INCOME 2
6-I.C. ANTICIPATING ANNUAL INCOME 5
6-I.D. EARNED INCOME 6
6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617, Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27] 8
6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(28) as updated for HOTMA; Notice PIH 2023-27] 9
6-I.H. PERIODIC PAYMENTS 17
6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) as updated for HOTMA and Notice PIH 2023-27)] 19
6-I.J. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)] 20
6-I.K. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25) as updated for HOTMA; FR Notice 2/14/23] 20
6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b) as updated for HOTMA; FR Notice 1/31/2024] 21
6-I.M. ASSETS [24 CFR 5.609(b)(3) ; 24 CFR 50603(b)] 26

6-I.N. WELFARE ASSISTANCE....33
6-I.O. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]....34
PART II: ADJUSTED INCOME....34
6-III.A. INTRODUCTION....34
6-II.B. DEPENDENT DEDUCTION....35
6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION....35
6-II.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b) as updated by HOTMA]....35
6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]....37
6-II.F. CHILDCARE EXPENSE DEDUCTION....39
PART III: CALCULATING FAMILY SHARE AND CDA SUBSIDY....42
6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS....42
6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]....43
6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]....45
6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]....47
6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]....48
EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS....49
EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS....51
EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS....54
EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION....55
Chapter 6.B....57
INTRODUCTION....57
PART I: ANNUAL INCOME....58
6-I.A. OVERVIEW [24 CFR 5.609]....58
6-I.B. HOUSEHOLD COMPOSITION AND INCOME....59
6-I.C. CALCULATING ANNUAL INCOME....61
6-I.D. EARNED INCOME....62
6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]....64
6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]....65
6-I.G. STUDENT FINANCIAL ASSISTANCE [FR Notice 2/14/23 and Notice PIH 2023-27]....66
6-I.H. PERIODIC PAYMENTS....72
6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]....74
6-I.J. WELFARE ASSISTANCE....75

6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)] 76
6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23] 76
6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b); FR Notice 1/31/2024] 77
PART II: ASSETS 82
6-II.A. OVERVIEW 82
6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)] 83
6-II.C. ASSET INCLUSIONS AND EXCLUSIONS 84
6-II.D. DETERMINING INCOME FROM ASSETS 90
PART III: ADJUSTED INCOME 93
6-III.A. INTRODUCTION 93
6-III.B. DEPENDENT DEDUCTION 94
6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION 94
6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)] 94
6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)] 96
6-III.F. CHILDCARE EXPENSE DEDUCTION 97
6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)] 100
6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(ii)] 105
PART IV: CALCULATING FAMILY SHARE AND CDA SUBSIDY 106
6-IV.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS 106
6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630] 107
6-IV.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505(c) and Notice PIH 2024-34] 110
6-IV.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517] 113
6-IV.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520] 115
EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION 116
EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS 121
EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION 122
CHAPTER 7.A. 1
INTRODUCTION 1
PART I: GENERAL VERIFICATION REQUIREMENTS 1
7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, and Notice PIH 2023-27] 1
7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27] ... 3
7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27] 5
7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27] 7

7-I.E LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV) 7
7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27] 11
7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023 -27] 13
7.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27] 13
7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27] 14
Part II: VERIFYING FAMILY INFORMATION 16
7-II.A. VERIFICATION OF LEGAL IDENTITY 16
7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27] 16
7-II.C. DOCUMENTATION OF AGE 18
7-II.D. FAMILY RELATIONSHIPS 18
7-II.E. VERIFICATION OF STUDENT STATUS 19
7-II.F. DOCUMENTATION OF DISABILITY 20
7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508] 21
7-II.H. VERIFICATION OF PREFERENCE STATUS 22
PART III: VERIFYING INCOME AND ASSETS 23
7-III.A. EARNED INCOME 23
7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME 24
7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS 24
7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27] 25
7-III.E. NONRECURRING INCOME [Notice PIH 2023-27] 26
7-III.F. ASSETS AND INCOME FROM ASSETS 26
7-III.G. ASSETS AND INCOME FROM ASSETS 27
7-III.H. NET INCOME FROM RENTAL PROPERTY 28
7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27] 28
7-III.J. RETIREMENT ACCOUNTS 28
7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27] 28
7-III.L. ZERO INCOME STATUS REVIEWS [Notice PIH 2023-27] 29
7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9) as updated for HOTMA] 30
7-III.N. PARENTAL INCOME FOR STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS 30
PART IV: VERIFYING MANDATORY DEDUCTIONS 31
7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS 31
7-IV.B. HEATLH AND MEDICAL CARE EXPENSE DEDUCTION 31
7-IV.C. DISABILITY ASSISTANCE EXPENSES 33
7-IV.D. CHILDCARE EXPENSES 34

EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10] 37

Chapter 7.B. 38

INTRODUCTION 38

PART I: GENERAL VERIFICATION REQUIREMENTS 38

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516; 24 CFR 982.551; 24 CFR 5.230; and Notice PIH 2023-27] 38

7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27] 40

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27] 42

7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27] 43

7-I.E. LEVEL 5 AND 6 VERIFICATIONS: UP-FRONT INCOME VERIFICATION (UIV) 44

7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27] 47

7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023 -27] 49

7.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27] 50

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION: SELF-CERTIFICATION [Notice PIH 2023-27] 50

Part II: Verifying FAMILY INFORMATION 51

7-II.A. VERIFICATION OF LEGAL IDENTITY 51

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27] 52

7-II.C. DOCUMENTATION OF AGE 54

7-II.D. FAMILY RELATIONSHIPS 54

7-II.E. VERIFICATION OF STUDENT STATUS 55

7-II.F. DOCUMENTATION OF DISABILITY 56

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508] 57

PART III: Verifying Income AND ASSETS 59

7-III.A. EARNED INCOME 59

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME 59

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS 60

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27] 61

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27] 61

7-III.F. ASSETS AND INCOME FROM ASSETS 61

7-III.G. NET INCOME FROM RENTAL PROPERTY 63

7-III.H. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27] 63

7-III.I. RETIREMENT ACCOUNTS 63

7-III.J. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27] 63

7-III.K. ZERO INCOME FAMILIES [Notice PIH 2023-27] 64

7-III.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)] 64

7-III.M. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS....65
PART IV: VERIFYING MANDATORY DEDUCTIONS....65
7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS....65
7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION....66
7-IV.C. DISABILITY ASSISTANCE EXPENSES....67
7-IV.D. CHILDCARE EXPENSES....69
EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10] 72
CHAPTER 8....1
HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS....1
INTRODUCTION....1
PART I: PHYSICAL STANDARDS....2
8-I.A. GENERAL HUD REQUIREMENTS....2
8-I.B. ADDITIONAL LOCAL REQUIREMENTS....3
8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]....5
8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]....6
8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]....7
8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]....7
PART II: THE INSPECTION PROCESS....7
8-II.A. OVERVIEW [24 CFR 982.405]....7
8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]....9
8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]....10
8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]....11
8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); 24 CFR 985.3(e); HCV GB, p. 10-32]....11
8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT....11
8-II.G. ENFORCING OWNER COMPLIANCE....13
8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]....13
PART III: RENT REASONABLENESS [24 CFR 982.507]....14
8-III.A. OVERVIEW....14
8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED....14
8-III.C. HOW COMPARABILITY IS ESTABLISHED....15
8-III.D. CDA RENT REASONABLENESS METHODOLOGY....16
EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS....18
EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY....20
CHAPTER 9....1

GENERAL LEASING POLICIES 1
INTRODUCTION 1
9-I.A. TENANT SCREENING 1
9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517 and 24 CFR 982.302] 2
9-I.C. OWNER PARTICIPATION 3
9-I.D. ELIGIBLE UNITS 3
9-I.E. LEASE AND TENANCY ADDENDUM 5
9-I.F. TENANCY APPROVAL [24 CFR 982.305] 8
9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305] 8
9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308] 9
CHAPTER 10 1
MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY 1
INTRODUCTION 1
PART I: MOVING WITH CONTINUED ASSISTANCE 1
10-I.A. ALLOWABLE MOVES 1
10-I.B. RESTRICTIONS ON MOVES 2
10-I.C. MOVING PROCESS 4
PART II: PORTABILITY 5
10-II.A. OVERVIEW 5
10-II.B. INITIAL CDA ROLE 6
10-II.C. RECEIVING CDA ROLE 11
CHAPTER 11.A. 1
REEXAMINATIONS 1
INTRODUCTION 1
PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516] 1
11-I.A. OVERVIEW 1
11-I.B. STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b); New HCV GB, Reexaminations] 1
11-I.C. SCHEDULING ANNUAL REEXAMINATIONS 2
11-I.D. CONDUCTING ANNUAL REEXAMINATIONS 3
11-I.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)] 4
11-I.F. EFFECTIVE DATES 5
PART II: INTERIM REEXAMINATIONS [24 CFR 982.516] 5
11-II.A. OVERVIEW 5
11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION 6

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES 7
11-II.D. PROCESSING THE INTERIM REEXAMINATION 9
PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT 9
11-III.A. OVERVIEW 9
11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES 10
11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT 11
11-III.D. DISCREPANCIES 11
Chapter 11.B. 12
REEXAMINATIONS UNDER HOTMA 102/104 12
INTRODUCTION 12
PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516] 12
11-I.A. OVERVIEW 12
11-I.B. SCHEDULING ANNUAL REEXAMINATIONS 13
11-I.C. CONDUCTING ANNUAL REEXAMINATIONS 14
11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)] 15
11-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27] 15
11-I.F. EFFECTIVE DATES 17
PART II: INTERIM REEXAMINATIONS [24 CFR 982.516; Notice PIH 2023-27] 17
11-II.A. OVERVIEW 17
11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION 18
11-II.C. CHANGES AFFECTING INCOME OR EXPENSES 20
11-II.D. EFFECTIVE DATES [24 CFR 982.516(e) and Notice 2023-27] 23
PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT 24
11-III.A. OVERVIEW 24
11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES 24
11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT 25
11-III.D. DISCREPANCIES 25
PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [Notice PIH 2023-27] 26
Exhibit 11-1: CALCULATING INCOME AT ANNUAL REEXAMINATION 27
CHAPTER 12 1
TERMINATION OF ASSISTANCE AND TENANCY 1
PART I: GROUNDS FOR TERMINATION OF ASSISTANCE 1
12-I.A. OVERVIEW 1
12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455] 1

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE 1
12-I.D. MANDATORY TERMINATION OF ASSISTANCE 2
12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS 4
PART II: APPROACH TO TERMINATION OF ASSISTANCE 9
12-II.A. OVERVIEW 9
12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)] 9
12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE 9
12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE 10
12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING OR HUMAN TRAFFICKING 11
12-II.F. TERMINATION NOTICE 14
PART III: TERMINATION OF TENANCY BY THE OWNER 15
12-III.A. OVERVIEW 15
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,] 15
12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum] 17
12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)] 17
12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE 18
EXHIBIT 12-1: APPLICANT/TENANT CERTIFICATION AND STATEMENT OF TENANT OBLIGATIONS 19
CHAPTER 13 1
OWNERS 1
INTRODUCTION 1
PART I. OWNERS IN THE HCV PROGRAM 1
13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6, HCV Landlord Strategy Guidebook for CDAs] 1
13-I.B. BASIC HCV PROGRAM REQUIREMENTS 2
13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452] 4
13-I.D. OWNER QUALIFICATIONS 4
13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641] 7
PART II. HAP CONTRACTS 7
13-II.A. OVERVIEW 7
13-II.B. HAP CONTRACT CONTENTS 8
13-II.C. HAP CONTRACT PAYMENTS 9
13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453] 10
13-II.E. HAP CONTRACT TERM AND TERMINATIONS 11

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641] 12
13-II.G. FORECLOSURE [Notice PIH 2010-49] 13
CHAPTER 14 1
PROGRAM INTEGRITY 1
INTRODUCTION 1
PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE 1
14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE 1
14-I.B. DETECTING ERRORS AND PROGRAM ABUSE 2
14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE 3
PART II: CORRECTIVE MEASURES AND PENALTIES 5
14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS 5
14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE 5
14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE 6
14-II.D. CDA-CAUSED ERRORS OR PROGRAM ABUSE 8
14-II.E. CRIMINAL PROSECUTION 9
14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES 9
EXHIBIT 14-1: CODE OF CONDUCT 10
CHAPTER 15 1
SPECIAL HOUSING TYPES 1
INTRODUCTION 1
PART I: SINGLE ROOM OCCUPANCY 2
15-I.A. OVERVIEW 2
15-I.B. SPECIAL REQUIREMENTS FOR SINGLE ROOM OCCUPANCY ASSISTANCE 2
15-I.C. HAP CALCULATION 2
15-I.D. HOUSING QUALITY STANDARDS 2
PART II: MANUFACTURED HOMES 4
15-II.A. OVERVIEW 4
15-II.B. SPECIAL REQUIREMENTS FOR MANUFACTURED HOMEOWNERS WHO LEASE A SPACE 4
15-II.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17] 4
15-II.D. HOUSING QUALITY STANDARDS 5
PART III: HOMEOWNERSHIP 6
15-III.A. OVERVIEW [24 CFR 982.625] 6
15-III.B. FAMILY ELIGIBILITY [24 CFR 982.627] 6
15-III.C. SELECTION OF FAMILIES [24 CFR 982.626] 8

15-III.D. ELIGIBLE UNITS [24 CFR 982.628] 8
15-III.E. ADDITIONAL CDA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629] 9
15-III.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630] 10
15-III.G. HOME INSPECTIONS, CONTRACT OF SALE, AND CDA DISAPPROVAL OF SELLER [24 CFR 982.631] 10
15-III.H. FINANCING [24 CFR 982.632] 12
15-III.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633] 12
15-III.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634] 13
15-III.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635] 14
15-III.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553] 15
15-III.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637] 15
15-III.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638] 16
CHAPTER 16 1
PROGRAM ADMINISTRATION 1
INTRODUCTION 1
PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155] 2
PART II: SETTING PROGRAM STANDARDS AND SCHEDULES 2
16-II.A. OVERVIEW 2
16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7 and Notice PIH 2024-34] 3
16-II.C. UTILITY ALLOWANCES [24 CFR 982.517] 7
16-II.D. UTILIZATION ASSISTANCE PILOT PROGRAM 8
PART III: INFORMAL REVIEWS AND HEARINGS 9
16-III.A. OVERVIEW 9
16-III.B. INFORMAL REVIEWS 10
16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555] 11
16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514] 19
PART IV: OWNER OR FAMILY DEBTS TO THE CDA 22
16-IV.A. OVERVIEW 22
16-IV.B. REPAYMENT POLICY 23
PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) 26
16-V.A. OVERVIEW 26
16-V.B. SEMAP CERTIFICATION [24 CFR 985.101] 26
16-V.C. SEMAP INDICATORS [24 CFR 985.3 and Form HUD-52648] 27
SEMAP INDICATORS 28
PART VI: RECORD KEEPING 29

16-VI.A. OVERVIEW 29
16-VI.B. RECORD RETENTION [24 CFR 982.158; 24 CFR 908.101] 30
16-VI.C. RECORDS MANAGEMENT 31
PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL 32
16-VII.A. OVERVIEW 32
16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13] 32
16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)] 32
PART VIII: DETERMINATION OF INSUFFICIENT FUNDING 33
16-VIII.A. OVERVIEW 33
16-VIII.B. METHODOLOGY 33
PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY 34
16-IX.A. OVERVIEW 34
16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925] 34
16-IX.C. NOTIFICATION [24 CFR 5.2005(a)] 36
16-IX.D. DOCUMENTATION [24 CFR 5.2007] 37
16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)] 39
EXHIBIT 16-1: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENECE AGAINST WOMEN ACT, FORM HUD-5380 40
EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382 45
EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, or STALKING (HCV VERSION) 48
EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383 51
EXHIBIT 16-5: MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS 55
CHAPTER 17 1
PROJECT-BASED VOUCHERS 1
INTRODUCTION 1
PART I: GENERAL REQUIREMENTS 2
17-I.A. OVERVIEW [24 CFR 983.5; FR Notice 01/18/17; Notice PIH 2017-21] 2
17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2] 3
17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7] 3
17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8] 4
PART II: PBV OWNER PROPOSALS 4
17-II.A. OVERVIEW 4

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)] 4
17-II.C. HOUSING TYPE [24 CFR 983.52] 8
17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS 8
17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, Notice PIH 2013-11, and FR Notice 3/13/23] 9
17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT 10
17-II.G. SITE SELECTION STANDARDS 11
17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58] 12
PART III: DWELLING UNITS 13
17-III.A. OVERVIEW 13
17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101] 13
17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES 13
17-III.D. INSPECTING UNITS 14
PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNIT 15
17-IV.A. OVERVIEW [24 CFR 983.151] 15
17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT 15
17-IV.C. CONDUCT OF DEVELOPMENT WORK 16
17-IV.D. COMPLETION OF HOUSING 16
PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP) 17
17-V.A. OVERVIEW 17
17-V.B. HAP CONTRACT REQUIREMENTS 17
17-V.C. AMENDMENTS TO THE HAP CONTRACT 20
17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)] 21
17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210] 21
17-V.F. ADDITIONAL HAP REQUIREMENTS 21
PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS 22
17-VI.A. OVERVIEW 22
17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)] 22
17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)] 23
17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)] 23
17-VI.E. OFFER OF PBV ASSISTANCE 24
17-VI.F. OWNER SELECTION OF TENANTS 25
17-VI.G. TENANT SCREENING [24 CFR 983.255] 25
PART VII: OCCUPANCY 26
17-VII.A. OVERVIEW 26

17-VII.B. LEASE [24 CFR 983.256] 27
17-VII.C. MOVES 29
17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262,] 31
PART VIII: DETERMINING RENT TO OWNER 32
17-VIII.A. OVERVIEW 32
17-VIII.B. RENT LIMITS [24 CFR 983.301] 32
17-VIII.C. REASONABLE RENT [24 CFR 983.303] 35
17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL 36
PART IX: PAYMENTS TO OWNER 37
17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351] 37
17-IX.B. VACANCY PAYMENTS [24 CFR 983.352] 37
17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353] 38
17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354] 39
EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION 40
(FILL OUT ONE FOR EACH DEVELOPMENT) 40
EXHIBIT 17-2: SPECIAL PROVISIONS APPLYING TO TPVS AWARDED AS PART OF A VOLUNTARY CONVERSION OF PUBLIC HOUSING UNITS IN PROJECTS THAT INCLUDE RAD PBV UNITS 43
CHAPTER 18 1
TARGETED RENTAL ASSISTANCE 1
INTRODUCTION 1
PART I: FAMILY UNIFICATION PROGRAM 2
18-I.A. OVERVIEW 2
18-I.B. PARNTERING AGENCIES [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar] 3
Public Child Welfare Agency (PCWA) 3
18-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA 4
18-I.D. FUP YOUTH VOUCHER ELIGIBILTY CRITERIA [Notice PIH 2023-04; FYI Q&As; FYI FAQs] 5
18-I.E. ASSISTANCE PERIOD [FR Notice 1/24/22] 5
18-I.F. REFERRALS AND WAITING LIST MANAGEMENT [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar FYI FAQs] 11
18-I.G. CDA HCV ELIGIBILITY DETERMINATION 13
18-I.H. LEASE UP [FR Notice 1/24/22] 13
18-I.I. TERMINATION OF ASSISTANCE 14
18-I.J. FUP PORTABILITY 15
18-I.K. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 1/24/22] 15
PART II: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM 16

18-II.A. OVERVIEW 16
18-II.B. REFERRALS [FR Notice 9/27/21 and HUD-VASH Qs and A's] 17
18-II.C. HCV PROGRAM ELIGIBILITY [FR Notice 9/27/21] 17
18-II.D. CHANGES IN FAMILY COMPOSITION 19
18-II.E. LEASING [FR Notice 9/27/21] 19
18-II.F. PORTABILITY [FR Notice 9/27/21 and Notice PIH 2011-53] 21
18-II.G. TERMINATION OF ASSISTANCE [FR Notice 9/27/21] 22
18-II.H. PROJECT-BASING VASH VOUCHERS 22
PART III: MAINSTREAM VOUCHER PROGRAM 24
18-III.A. PROGRAM OVERVIEW [Notice PIH 2020-01] 24
18-III.B. ELIGIBLE POPULATION [Notice PIH 2020-01 and Notice PIH 2020-22] 25
18-III.C. PARTNERSHIP AND SUPPORTIVE SERVICES [Notice PIH 2020-01] 25
18-III.D. WAITING LIST ADMINISTRATION 25
18-III.E. VOUCHER ISSUANCE [Notice PIH 2024-30] 26
18-III.F. PORTABILITY [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20] 27
18-III.F. PROJECT-BASING MAINSTREAM VOUCHERS [FY19 Mainstream Voucher NOFA Q&A] 27
PART IV: LINCOLN PLACE 27
18-IV.A. OVERVIEW 27
PART V: EMERGENCY HOUSING VOUCHERS (EHVs) 28
18-V.A. INTRODUCTION 28
PART I:FUNDING 28
18-I.A. FUNDING OVERVIEW 28
18-I.B. SERVICE FEES 30
PART II: PARTNERING AGENCIES 31
18-II.A. CONTINUUM OF CARE (CoC) 31
18-II.B. OTHER PARTNERING ORGANIZATIONS 31
18-II.C. REFERRALS 31
PART III: WAITING LIST MANAGEMENT 33
18-III. A. HCV WAITING LIST 33
18-III.B. EHV WAITING LIST 33
18-III.C. PREFERENCES 33
PART IV: FAMILY ELIGIBLTY 34
18-IV.A. OVERVIEW 34
18-IV.B. REFERRING AGENCY DETERMINATION OF ELIGIBLITY 34

18-IV.C. CDA SCREENING 34
18-IV.D. INCOME VERIFICATION AT ADMISSION 36
18-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION 37
118-IV.F. AGE AND DISABILITY VERIFICATION 38
18S-IV.G. INCOME TARGETING 38
PART V: HOUSING SEARCH AND LEASING 39
18-V.A. INITIAL VOUCHER TERM 39
18-V.B. HOUSING SEARCH ASSISTANCE 39
18-V.C. HQS PRE-INSPECTIONS 40
18-V.D. INITIAL LEASE TERM 40
18-V.E. PORTABILITY 40
18-V.F. PAYMENT STANDARDS 42
18-V.G. TERMINATION OF VOUCHERS 43
PART VI: USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS 43
Exhibit 18-1: HOMELESS PROVIDER'S CERTIFICATION 45
Exhibit 18-2: EXAMPLE OF A VICTIM SERVICES PROVIDER'S CERTIFICATION 47
PART VI: FAMILY VOUCHER RENTAL ASSISTANCE PROGRAM 48
18-VI.A. OVERVIEW 48
18-VI.B. ELIGIBILITY 48
18-VI.C. OUTREACH AND REFERRALS 48
18-VI.D. APPLICATIONS, WAITING LIST AND TENANT SELECTION 48
18-VI.E. INCOME AND SUBSIDY DETERMINATIONS 48
18-VI.F. HOUSING QUALITY STANDARDS (HQS) 49
18-VI.G. MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY 49
18-VI.H. SPECIAL HOUSING TYPES 49
18-VI.I. PROGRAM ADMINISTRATION 49
PART VII: NICOLS POINTE RENTAL ASSISTANCE PROGRAM 50
18-VII.A. OVERVIEW 50
18-VII.B. ELIGIBILITY 50
18-VII.C. OUTREACH AND REFERRALS 50
18-VII.D. APPLICATIONS, WAITING LIST AND TENANT SELECTION 50
18-VII.E. INCOME AND SUBSIDY DETERMINATIONS 50
18-VII.F. INSPECTION 51
18-VII.G. MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY 51

18-VII.H. SPECIAL HOUSING TYPES 51
18-VII.I. PROGRAM ADMINISTRATION 51
GLOSSARY 1
A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM 1
B. DEFINITIONS OF SUBSIDIZED HOUSING TERMS 4
Appendix to the Administrative Plan (HOTMA 102/104) 20
Purpose of the Appendix 20
Chapter 00: No HOTMA 102/104 policies apply. 21
Chapter 1: No HOTMA 102/104 policies apply. 21
Chapter 2: No HOTMA 102/104 policies apply. 21
Chapter 3 21
Chapter 4: No HOTMA 102/104 policies apply. 21
Chapter 5: No HOTMA 102/104 policies apply. 21
Chapter 6 21
Chapter 7 22
Chapter 8: No HOTMA 102/104 policies apply. 22
Chapter 9: No HOTMA 102/104 policies apply. 22
Chapter 10: No HOTMA 102/104 policies apply. 22
Chapter 11 22
Chapter 12 22
Chapter 13: No HOTMA 102/104 policies apply. 22
Chapter 14: HOTMA 102/104 policies related to de minimis errors are applicable no later than July 1, 2025. 22
Chapter 15: No HOTMA 102/104 policies apply. 22
Chapter 16: No HOTMA 102/104 policies apply. 22
Chapter 17: No HOTMA 102/104 policies apply. 22
Chapter 18: No HOTMA 102/104 policies apply. 22
Chapter 19: No HOTMA 102/104 policies apply. 22
Glossary 22

HOUSING CHOICE VOUCHER

INTRODUCTION

ABOUT THE DAKOTA COUNTY CDA ADMINISTRATIVE PLANS

RERFERENCE CITED IN THE ADMINISTRATIVE PLAN

The authority for CDA policies is derived from many sources. Primary among these sources are federal statutes, federal regulations and guidance issued by HUD. State law also directs CDA policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy if it does not conflict with federal requirements or prohibitions.

HUD

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

HUD also provides guidance to the CDA through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing CDA policy on HUD guidance is optional, if CDA 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, CDA reliance on HUD guidance provides the CDA with a "safe harbor."

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

State Law

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

Industry Practice

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

RESOURCES CITED IN THE ADMINISTRATIVE PLAN

This administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the administrative plan may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the administrative plan or that may be helpful.

HUD HCV Guidebook

In November 2019 HUD began issuing a new version of the HCV Guidebook chapter-by-chapter. Unlike the previous version of the HCV Guidebook in which chapters were numbered, the new version of the guidebook includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the HCV Guidebook is cited in the policy, the citation will make a distinction between the "old" and "new" versions of the guidebook. The "old" version of the guidebook will continue to be cited as *HCV GB* with a chapter/page reference (example: HCV GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New HCV GB* with a chapter title and page reference (example: New HCV GB, *Payment Standards,* p. 11). On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portions of the guidebook, specifically the chapters on eligibility, denials, and annual reexaminations and interim reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the policy continues to cite the HCV Guidebook.

Abbreviations

Throughout this administrative plan, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited in the administrative plan.

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001.
New HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), Various dates of release
HUD-50058 IB	HUD-50058 Instruction Booklet
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004.
HB 4350.3	Occupancy Requirements of Subsidized Multifamily Housing Programs

Resources and Where to Find Them

The HUD website is https://www.hud.gov/.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: https://www.hud.gov/program_offices/administration/hudclips

The following is a list of resources helpful to the CDA or referenced in the administrative plan, and the online location of each.

Document and Location
Code of Federal Regulations https://www.ecfr.gov
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
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data https://www.hud.gov/sites/documents/EIVSECGUIDECDA.PDF
Executive Order 11063 https://www.archives.gov/federal-register/codification/executive-order/11063
Federal Register https://www.federalregister.gov/
Housing Choice Voucher Program Guidebook (7420.10G)Updated Chapters https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook
HOTMA Final Rule https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email
HOTMA Implementation Notice, PIH 2023-27 https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 C:\Users\solomonr\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\J3MRJNOI\f https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf
Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice https://www.hud.gov/sites/documents/DOC_8993.PDF
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF
VAWA Resources https://www.hud.gov/vawa

CHAPTER 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

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

There are three parts to this chapter:

Part I: The Dakota County Community Development Agency (CDA). This part includes a description of the CDA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE CDA

1-I.A. OVERVIEW

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

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

The Section 8 tenant-based Housing Choice Voucher (HCV) program is funded by the federal government and administered locally by the Dakota County CDA. The jurisdiction includes all cities and townships in Dakota County, Minnesota. The CDA operates the HCV program in all areas of its jurisdiction. The CDA operates other federal, state, and locally funded rental assistance programs in all areas of Dakota County.

The officials of the CDA are known as commissioners or, collectively, as the Board of Commissioners. Commissioners are appointed in accordance with state law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the CDA conducts business, ensuring that policies are followed by CDA staff, and ensuring that the CDA is successful in its mission. The Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

Formal actions of the CDA are taken through written resolutions, adopted by the Board of

Commissioners, and entered into the official records of the CDA.

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

1-I.C. CDA 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.

CDA Policy

To improve the lives of Dakota County residents and enhance the economic vitality of communities through housing and community development.

1-I.D. THE CDA'S PROGRAMS

The following programs are included under this administrative plan:

CDA Policy

The CDA's administrative plan is applicable to the operation of the Housing Choice Voucher program. In addition, the administrative plan addresses policies for the HCV Homeownership, Family Self-Sufficiency Program, and Project Based Assistance options. The policies and procedures described in this administrative plan also apply to other tenant-based subsidy programs administered by the CDA to the extent those programs have areas of policy discretion. Other programs covered by this plan include Family Unification Program, Mainstream, Emergency Housing Vouchers, and Veterans Affairs Supportive Housing.

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

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

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide 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's needs.
- Promote fair housing and equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity and encourages private property owners to rent to very low-income families.

- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owners, and community support in accomplishing the CDA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the CDA's support systems and a high level of commitment to our employees and their development.

The CDA 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 reader to better understand the program.

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 Housing Choice Voucher (also known as Section 8 Voucher program and 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. If the housing met certain basic physical standards of quality ("housing quality standards") and was within certain HUD-established rent limitations ("fair market rents"), the family would be able to receive rental assistance in the housing unit. Family 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, but there was no fair market rent limitation. 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, public housing agencies 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 combine and align the two similar housing programs, to the extent permitted by the law.

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 tenant-based 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 rent.

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.

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

- The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for CDAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to CDAs on the implementation of the program changes described in the Final Rule. HUD issued a revised version of the notice on February 2, 2024.
- The Final Rule implementing streamlining changes to the HCV and PBV programs was published on May 7, 2024, and codified certain provisions in Section 101, 105, 106, and 112 of HOTMA as well as incorporating changes from the NSPIRE final rule.

1-II.B. HCV PROGRAM BASICS

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

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

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

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

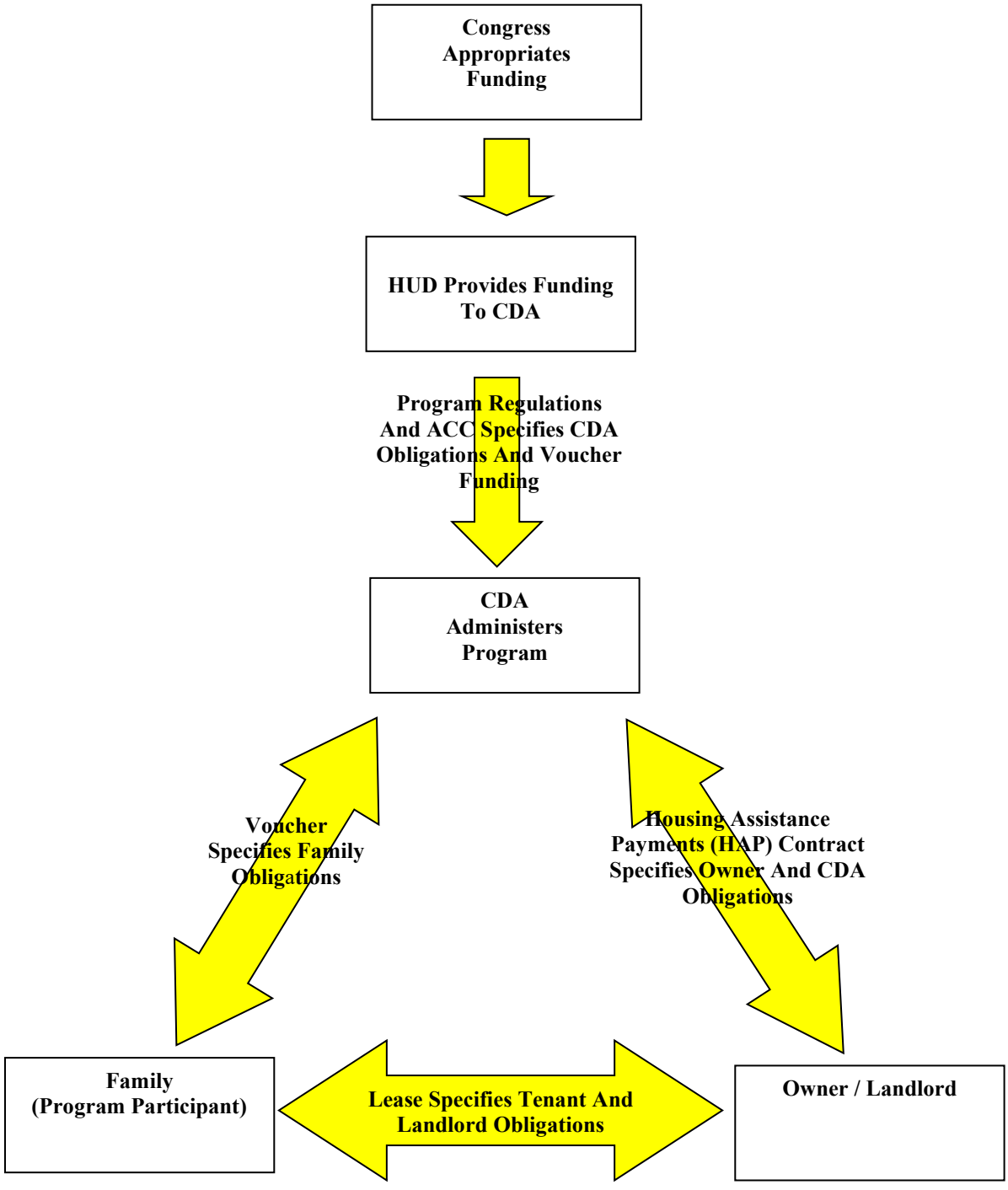
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, the CDA enters into a contractual relationship with HUD (Consolidated Annual Contributions Contract). The CDA 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 CDA, 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.

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

The HCV Relationships:



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 CDA;
- Provide technical assistance to CDA on interpreting and applying HCV program requirements; and
- Monitor CDA compliance with HCV program requirements and CDA performance in program administration.

What Does the CDA Do?

The CDA administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies to administer the program;
- Review applications from interested applicants to determine whether they are eligible for the program;
- Maintain a waiting list and select families for admission;
- Issue vouchers to eligible families and provide information on how to lease a unit;
- 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;
- Recertify families for continued eligibility under the program;
- Ensure that owners and families comply with their contractual obligations;
- Provide families and owners with prompt, professional service; and
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, the CDA's administrative plan, and other 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 suitability as renters.
    - The CDA can provide some information to the owner, but 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, and whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.

- Comply with the terms of the Housing Assistance Payments contract, executed with the CDA;
- Comply with all applicable fair housing laws and do not discriminate against anyone;
- Maintain the housing unit in accordance with minimum quality standards developed by HUD in accordance with 24 CFR.5.703 (including any variations approve by HUD for the CDA) and make necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What Does the Family Do?

The family has the following responsibilities:

- Provide the CDA with complete and accurate information as determined by the CDA to be necessary for administration of the program;
- Make their best and most timely efforts to locate qualified and suitable housing;
- Attend all appointments scheduled by the CDA;
- Allow the CDA 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 CDA 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, allow someone, not residing in the unit, to use their mailing address or have any interest in the unit (except under the Homeownership option);
- Promptly notify the CDA of any changes in family composition and income;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

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

- 24 CFR Part 984: Family Self Sufficiency
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

PART III: THE HCV ADMINISTRATIVE PLAN

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

The 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 the CDA's agency plan. This administrative plan is a supporting document to the CDA agency plan and is available for public review as required by 24 CFR Part 903.

This administrative plan is set forth to define the CDA's local policies for operation of the housing programs in accordance with federal laws and regulations. All issues related to the HCV program 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 CDA is required by regulation to comply with the policies in the administrative plan. The CDA 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 CDA staff shall be in compliance with the CDA's personnel policy and HUD regulations as well as all federal, state, and local fair housing laws and regulations.

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

The HUD regulations at 24 CFR 982.54 define the policies that must be included in the administrative plan. They are as follows:

- Selection and admission of applicants from the CDA waiting list, including any CDA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the CDA waiting list (Chapter 4);
- Issuing or denying vouchers, including CDA policy governing the voucher term and any extensions of the voucher term. If the CDA decides to allow extensions of the voucher term, the CDA administrative plan must describe how the CDA determines whether to grant extensions, and how the CDA determines the length of any extension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the CDA 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 982.553 (Chapters 3 and 12);
- 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);
- Policies on administering decreases and increases in the payment standard during the HAP contract term (Chapter 6);
- 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 CDA of amounts the family owes the CDA (Chapter 16);
- Interim redeterminations 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);
- CDA screening of applicants for family behavior or suitability for tenancy (Chapter 3);
- Policies governing the project-basing of voucher in both the standard Project-based Voucher (PBV) program (Chapter 17) and the RAD Project-Based Voucher program (Chapter 17); and
- Special policies concerning targeted rental assistance programs (Chapter 18).

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 the CDA to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the CDA discretion. The CDA's administrative plan is the foundation of those policies and procedures. HUD's directions require the CDA to make policy choices that provide guidance to staff and ensure consistency to program applicants and participants.

Creating policies based upon HUD guidance is not mandatory but provides the CDA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If the CDA 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, but the CDA 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 CDA will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

CDA Policy

The CDA will review and update the plan as needed to reflect changes in regulations, CDA operations, or when needed to ensure staff consistency in operation.

CHAPTER 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

This chapter describes HUD regulations and CDA policies related to these topics in three parts:

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require the CDA to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. State law prohibits discrimination in housing on the basis of race, color, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The CDA will comply fully 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 Orders 11063 and 13988

- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012, and further clarified in Notice PIH 2014-20
- Violence Against Women Act (VAWA)

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

Minnesota Statute Chapter 363A entitled Minnesota Human Rights Act

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.

2-I.B. NONDISCRIMINATION

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

The CDA shall not discriminate because of race, color, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance (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.

The CDA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Order 13988].

CDA Policy

The CDA does not identify any additional classes.

The CDA will not use any of these factors to:

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

- Discriminate in the provision of residential real estate transactions;
- Discriminate against someone because they are related to or associated with a member of a protected class; or
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families and Owners

The CDA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the CDA 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]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance in connection with the contract.

2-I.C. DISCRIMINATION COMPLAINTS

General Housing Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the CDA or an owner, the family should advise the CDA. The CDA should make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action.

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

CDA Policy

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

Within 10 business days of receiving the complaint, the CDA will investigate and attempt to remedy discrimination complaints made against the CDA. The CDA will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in CDA lobbies, will reference how to file a complaint with FHEO.

The CDA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

Complaints under the Equal Access Final Rule [Notice PIH 2014-20]

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that the CDA provides equal access regardless of marital status, gender identity, or sexual orientation. The CDA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

CDA Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify the CDA in writing.

Within 10 business days of receiving the complaint, the CDA will provide a written notice to those alleged to have violated the rule. The CDA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, 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).

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

Within 10 business days following the conclusion of the CDA's investigation, the CDA 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.

The CDA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

Complaints under the Equal Access Final Rule [Notice PIH 2014-20]

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that CDAs provide equal access regardless of marital status, gender identity, or sexual orientation. The CDA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

CDA Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify the CDA either orally or in writing.

Within 10 business days of receiving the complaint, the CDA will provide a written notice to those alleged to have violated the rule. The CDA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, 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).

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

Within 10 business days following the conclusion of the CDA's investigation, the CDA 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.

The CDA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

VAWA Complaint Processing [Notice FHEO 2023-01]

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

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

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

CDA Policy

Applicants or tenant families who wish to file a VAWA complaint against the CDA may notify the CDA in writing.

The CDA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The CDA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

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

The CDA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

PART II: POLICIES RELATED TO PERSONS WITH DISABIILTIES

2-II.A. OVERVIEW

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

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

CDA Policy

The CDA will ask all applicants and participants if they require any type of accommodation, in writing, on the intake application, reexamination documents, and notices of adverse action by the CDA, 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."

The letter will provide a phone number to facilitate contact with the CDA.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard for a participant to lease an accessible dwelling unit.

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

Types of Reasonable Accommodations

When needed, the CDA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail.
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the CDA range) if the CDA determines this is necessary to enable a person with disabilities to enjoy equal access to the program.
- 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 CDA staff.
- Allowing for exceptions to the CDA's subsidy standards.

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

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

CDA Policy

The CDA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the CDA will consider the accommodation any time the family indicates that 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 income allowances.

Before providing an accommodation, the CDA must determine that the person meets the definition of a person with a disability, and that the accommodation is necessary to afford the family an equal opportunity to access the CDA's programs and services.

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

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

When verifying a disability, the CDA 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 able to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The CDA must request only information that is necessary to evaluate the disability-related need for the accommodation. The CDA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

  If the CDA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the CDA will dispose of it. In place of the information, the CDA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

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

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

The CDA must approve a request for an accommodation if the following four conditions are met:

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

Requests for accommodations must be assessed on a case-by-case basis, considering factors such as the overall size of the CDA'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 deciding whether to approve the request, the CDA may enter discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the CDA may verify the need for the requested accommodation.

CDA Policy

After a request for an accommodation is presented, the CDA will respond, in writing, in a timely manner.

If the CDA denies a request for an accommodation, it will notify the family of their right to an informal review (if applicable) or informal hearing to dispute this decision (see Chapter 16). In resolving disputed decisions, the CDA will consult with the family and consider 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.

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

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

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

CDA Policy

To meet the needs of persons with hearing impairments, telephone communication is available through the Minnesota Relay Service.

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

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

2-II.G. PHYSICAL ACCESSIBILITY

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

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

- The Fair Housing Act of 1988

The CDA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern the CDA's responsibilities regarding physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally funded housing programs.
- The CDA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

The CDA's notice of denial will describe the CDA's informal review process and the right to appeal the decision. In addition, the notice will inform applicants of their right to request reasonable accommodations to participate in the informal review process.

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

When reviewing reasonable accommodation requests, the CDA will consider how a disability relates to or explains the problem that led to the CDA's decision to deny or terminate assistance. The CDA will also consider whether the requested accommodation can overcome any disability-related problem that has led to termination or denial of assistance. The CDA will make reasonable accommodations when doing so will allow the family to meet the requirements.

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

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. 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, published January 22, 2007, in the *Federal Register.*

The CDA 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, the CDA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons encounter 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 CDA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the CDA.

The CDA has a Limited English Proficiency (LEP) Plan for agency-wide observance in its interactions with the public. This LEP Plan constitutes the CDA's policies with respect to this, addressing language barriers and is appended to this chapter as Exhibit 2-2.

2-III.B. ORAL INTERPRETATION

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

CDA Policy

Families are informed with a language block of their right to request free interpreter services. See Exhibit 2-2.

2-III.C. WRITTEN TRANSLATION

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

CDA Policy

See Exhibit 2-2.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the CDA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the CDA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the CDA's Housing Choice Voucher program and services.

CDA Policy

See Exhibit 2-2.

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

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

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

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

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

The definition of a person with disabilities does not include:

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

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

The HUD definition of a person with a disability is 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 a reasonable accommodation is needed to provide equal opportunity to access the benefits of the HCV program.

EXHIBIT 2-2: LIMITED ENGLISH PROFICIENCY PLAN

Section One--Plan Purpose

The Dakota County CDA Limited English Proficiency (LEP) Plan sets forth the policy for ensuring meaningful access by limited English proficient persons to programs and services provided by the CDA.

The Plan has been developed in accordance with Executive Order 13166 and guidance provided by the Department of Housing and Urban Development. The CDA will make reasonable efforts to provide or arrange free language assistance for LEP clients. This includes applicants, recipients and/or persons eligible for CDA programs.

Section Two—Definitions

Limited English Proficient (LEP): Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be LEP, and may be entitled to language assistance with respect to a particular service, benefit, or encounter.

Interpretation: The act of listening to something in one language (source language) and orally translating it into another language (target language).

Translation: Is the replacement of written text from one language (source language) into an equivalent written text in another language (target language)

Meaningful Access: Meaningful access to programs and services is the standard of access required of federally funded entities to comply with Title VI's language access requirements. To ensure meaningful access for people with limited English proficiency, service providers must make available to applicants/recipient's free language assistance that result in accurate and effective communication.

Section Three—Four Factor Analysis

In taking reasonable steps to ensure meaningful access to programs and services by LEP persons, the CDA shall determine need within its service jurisdiction by balancing the following four factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the CDA.
- The frequency with which the CDA encounters a particular language.
- The nature and importance of the program, activity, or service to the person's life.
- The CDA's resources and the cost of providing meaningful access. Reasonable steps may cease to be reasonable when the costs imposed substantially exceed the benefits.

In analyzing the eligible market area and program beneficiaries by using the four factors, the CDA may conclude that different language assistance measures are sufficient for different types of programs and/or activities. Measures employed will be based on what is considered necessary and reasonable.

Section Four—Language Assistance

CDA staff will take reasonable steps to provide the opportunity for meaningful access by LEP clients who have difficulty communicating in English. The CDA has the discretion to determine whether language assistance is needed, and if so, the type of assistance necessary to provide meaningful access.

The Agency has identified two methods of providing meaningful access:

Interpreter Services

Oral interpretation services may be provided using informal and formal interpreters including bilingual staff, telephone interpretation services, contracted in- person interpreters, and informal interpreter networks.

Informal: Depending on the circumstances, timing, and subject matter the use of informal interpreters may be appropriate. Examples of informal interpreters include the LEP client's family members, friends, or advocates. CDA employees should be aware that staff should never require, suggest, or encourage a LEP client to use family members or friends as interpreters. However, a LEP person may use an informal interpreter of their own choosing and expense in place of or as a supplement to the free language assistance offered by the CDA. Due to issues of confidentiality and competency, informal interpreters must be over the age of 18. If the participant provides an informal interpreter, they must acknowledge that information that could be considered as private or confidential information under the Minnesota Government Data Practices Act or the federal Privacy Act

may be discussed at the meeting, appointment, or phone call, and that they consent to any disclosure of that information to the informal interpreter. Further, the CDA may also have a formal interpreter present, even if the LEP person has requested use of an informal interpreter.

Formal: Formal interpreters may include contract vendors and CDA staff. The CDA shall maintain contracts with professional interpreting services and determine, based on client need, the best source for such services. This service shall be free to clients. Contract interpretation services include:

State of Minnesota: Under State of Minnesota Cooperative Purchasing Venture (CPV) guidelines, the CDA has access to statewide master contracts with qualified vendors of spoken language interpreter services.

Dakota County Community Services: Dakota County Community Services has developed contracts with agencies to provide oral interpretation, written translation and American Sign Language to assist with clients who have limited English proficiency.

Dakota County CDA Listing: The CDA has developed a list of commonly used interpreters.

Competency of Interpreters: To provide effective services to LEP persons, the CDA will use competent interpreters. Competency to interpret does not necessarily mean formal certification as an interpreter but competency requires that interpreters:

- Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and use the appropriate mode of interpreting.
- Have fundamental knowledge in both languages of any specialized terms or concepts.
- Understand and adhere to their role as interpreters without deviating into a role outside of interpreting such as counselor or legal advisor.
- Demonstrate a solid understanding and compliance with MN Data Privacy laws

Means of providing: If a client asks for or indicates otherwise a need for language assistance, the CDA will determine whether the client is LEP, and that language assistance is necessary to provide meaningful access. Interpretation that is needed and reasonable shall be provided at a time and place that avoids the effective denial of the service or benefit.

Documentation of Use: CDA staff shall document in the client's case file or record when an interpreter is used or when a client makes use of another form of language assistance.

If the client has been offered free interpretive services and chooses to utilize their own interpreter, the client must sign a waiver indicating that they are giving up their right to free interpreter services. The waiver will be in effect for the time period indicated on the form.

Translation Services

The CDA will weigh the costs and benefits of translating documents for LEP groups, considering the expense of translating the documents, the barriers to meaningful translation of technical housing information, the likelihood of frequent changes in documents, the existence of multiple dialects within a single language group, the literacy rate of an LEP group and other relevant factors. The CDA will undertake the examination when an eligible LEP group constitutes 5 percent of an eligible client group or 1,000 persons, whichever is less.

As opportunities arise, the CDA may work with other housing authorities to share the costs of translating common documents.

Section Five—Notification

Client Notification

The CDA will provide notification of free language services by providing notice in appropriate languages explaining how LEP persons can receive assistance. Examples of client notification may include:

- Use of the Minnesota Department of Human Services Language Block (#1) at initial points of contact such as the CDA's main lobby, briefing room, and other key office locations such as cubicles where client meetings occur.
- Use of the Minnesota Department of Human Services Language Block (#4) in documents such as letters and applications.

Staff Notification

The CDA will provide notification to staff regarding the obligation to provide meaningful access to information and services for LEP persons. Examples of staff notification may include:

- Explanation of requirements at new employee orientation.
- Training sessions for supervisors and other staff who need to communicate with LEP clients regarding the LEP plan details and the requirement to offer free language assistance.

Section Seven—Evaluation and Monitoring

From time to time, the CDA will review the LEP Policy to determine its overall effectiveness. The review may consider the following areas:

- Changes in the current LEP populations;
- Changes in the frequency of encounters with LEP language groups;
- The nature and importance of agency activities to LEP persons;
- The availability of resources including technological advances, additional resources, and costs imposed;
- Whether existing assistance is meeting the needs of LEP persons;
- Whether staff knows and understands the LEP plan;
- Whether identified sources for assistance are still available and viable.

CHAPTER 3

ELIGIBILITY

INTRODUCTION

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

- The applicant family must:
  - Qualify as a family as defined by HUD and the CDA.
  - Have income at or below HUD-specified income limits.
  - Qualify based on citizenship or the eligible immigrant status of family members.
  - Provide social security number information and documentation for household members as required.
  - Consent to the CDA's collection and use of family information as provided for in CDA-provided consent forms.
  - Not currently receiving a duplicative subsidy.
  - Meet net asset and property ownership restriction requirements.
- The CDA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the CDA.

This chapter contains three parts:

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

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

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the CDA to deny assistance as well as the asset limitation for HCV.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.403; FR Notice 02/03/12; Notice PIH 2014-20 and FR Notice 2/14/23]

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

Family

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly, displaced person, disabled, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older, or a group or persons residing together. Such group includes but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a tenant family. The CDA has the discretion to determine if any other group of people qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

CDA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or affinity (regardless of actual or perceived sexual orientation, gender identity, or marital status) that live together in a stable family relationship.

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

Household

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

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

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

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the CDA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking, see section 16-IX. D of this plan.)
- In accordance with Notice PIH 2017-08, for HUD-Veterans Affairs Supportive Housing (HUD-VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, and human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD-VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator's HUD-VASH voucher should be used to serve another eligible family. If a

regular HCV is not available, the victim will continue to use the HUD-VASH voucher, which must be issued to another eligible family upon the voucher's turnover.

- If a court determines the disposition of property between members of the assisted family, the CDA is bound by the court's determination of which family members continue to receive assistance.

  CDA Policy

  When a family on the waiting list breaks up into two or more 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.

  If a family breaks up into two or more otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted. If one of the families has minor children, this family will retain assistance. If both families have minor children, the families will need to determine which will retain assistance.

  In the absence of a judicial decision, or an agreement among the original family members, the CDA will determine which family will retain their placement on the waiting list or will continue to receive assistance. When making its determination, the CDA 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, sexual assault stalking, or human trafficking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals working with the family.

  In a situation where the original family is not in agreement and there are no minor children, or both families have minor children, after the break-up, the CDA will use the factors above to determine which family will receive continued assistance.

Remaining Member of a Tenant Family [24 CFR 5.403]

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

If the *remaining member of a tenant family* has not been a part of the original household, they are not eligible for continued assistance. The CDA may make an exception as a reasonable accommodation.

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."

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 its responsibilities under the program, alone or in conjunction with a co-head or spouse.

CDA 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

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

Spouse means the marriage partner of the head of household.

CDA Policy

The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners.

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

CDA Policy

Friends, roommates, significant others, domestic partners, and minors who are emancipated under state law may be designated as a co-head.

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

3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603]

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

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

Joint Custody of Dependents

CDA 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 more than 50 percent of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the CDA will make the determination based on available documents such as court orders, or a tax return showing which family has claimed the child for income tax purposes.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]

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

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

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

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

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

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

Persons with Disabilities

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

As discussed in Chapter 2, the CDA 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, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter 6.

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

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

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

CDA Policy

A guest can remain in the assisted unit for no longer than 15 days in 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 50 percent of the time are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). The CDA may request documentation of the residence to which the guest will return.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a *foster adult* under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgement, decree, or other order of any court of competent jurisdiction.

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

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

Foster children and foster adults who are living with an applicant or who have been approved by the CDA to live with a participant family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].

CDA Policy

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

Children that are temporarily absent from the home because of placement in foster care are discussed in Section 3-I.L.

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

CDA Policy

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

Absent Students

CDA 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 only under the following circumstances: 1) the student resides in housing provided by the educational institution only for students of that institution,

AND

2) the student lives in the assisted unit at least three consecutive months of the year during which

time they do not maintain a separate student residence.

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

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

CDA Policy

If a child has been placed in foster care, the CDA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Co-head

CDA Policy

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

Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]

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

CDA Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

The CDA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent if the family certifies that the family member is confined on a permanent basis, they may present, and the CDA will consider any additional documentation or evidence.

Return of Permanently Absent Family Members

CDA Policy

The family must request CDA approval for the return of any adult family member that the CDA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter. Families requesting the return of family members after an absence of less than 180 days may be subject to a retroactive interim re-examination of income and required to repay benefits if it is determined that the member was only temporarily absent. The CDA may request verification of alternate housing maintained and living expenses incurred by the returning member during their absence in making its determination.

3-I.M. LIVE-IN AIDE

A *live-in aide* is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The CDA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24

CFR 8, to make the program accessible to and usable by the family member with disabilities.

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

CDA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member and must be signed by a reliable, knowledgeable professional such as a doctor, social worker, or case worker. The CDA will provide verification forms for this process. The family will be required to authorize the CDA to verify information via third-party sources. If the identified parties do not respond to the CDA's verification requests, the family will be offered an opportunity to provide additional documentation or potential sources for verification. If the family does not cooperate to secure verifications, the CDA will not approve the request.

The family must identify the individual to be designated as the live-in aide. The live-in aide will be required to document they have not provided nor are they obligated to support the member requiring such care. The live-in aide will need to document that they do not reside elsewhere.

The CDA will review all verification documents to determine whether the criteria for a live-in aide are met. The CDA reserves the right to deny the live-in-aide if the family's care needs can be met without the expense of housing a live-in-aide. For continued approval, the family must submit a new, written request-subject to CDA verification-at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services. Current and recent family members, spouses and domestic partners are presumed not to meet the definition of a live-in-aide unless documentation is provided that demonstrates otherwise. Such documentation would need to establish a history of living apart and managing personal expenses separately for a period of at least 12 consecutive months prior to the request.

The CDA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the CDA or to another HRA/CDA in connection with Section 8 or public housing assistance under the 1937 Act.

The CDA will perform a criminal background check, in accordance with Section 3.III.D, before approving a live-in aide to determine eligibility with the above criteria. The CDA will notify the family of its decision in writing in a timely manner.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

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

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

Using Income Limits for Eligibility [24 CFR 982.201 and Notice PIH 2023-27]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. The calculation of annual income is a point-in-time. Changes, after the initial calculation, will only be considered for households that have been determined eligible to ensure income eligibility continues.

To be income eligible, an applicant family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4; 24 CFR 982.201(b)]

  CDA Policy

  The CDA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time, they were selected from the CDA's waiting list.
- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced because 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 is eligible for assistance under VASH [FR Notice 8/13/24]. See Chapter 19 of this policy for more information.

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

CDA Policy

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

Using Income Limits for Targeting [24 CFR 982.201]

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

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

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

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

CDA Policy

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

Eligible Noncitizens

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

assistance.

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

Ineligible Noncitizens

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

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. 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 if at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

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

A CDA 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 CDA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the CDA in accordance with program requirements [24 CFR 5.512(a)].

CDA Policy

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

When the CDA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 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 its right to request an appeal to the United States Citizenship and Immigration Services (USCIS) or to request an informal hearing with the CDA. The informal hearing with the CDA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

A language block written in 10 languages will be included informing the family of free translation services, upon their request.

Informal hearing procedures are contained in Chapter 16.

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

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

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

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

CDA Policy

The CDA will verify the citizenship status of applicants at the time other eligibility factors are determined.

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

The applicant and all members of the applicant's household must disclose the complete and accurate Social Security Number (SSN) assigned to each household member and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

CDA Policy

The CDA will allow a maximum time period to disclose and provide documentation of all member SSNs of 90 days. If the family fails to disclose SSNs and provide documentation within the maximum time, the CDA will deny assistance and remove their name from the waiting list.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24CFR 5.230, 24 CFR 5.232, and HCV GB, p. 5-13]

HUD requires that each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886-A, Authorization for the Release of Information/Privacy Act Notice, the form HUD-52675 Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

The CDA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3) and 24 CFR 5.232(a)].

Upon the CDA's HOTMA 102/104 compliance date, the following revocation of consent is added:

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the CDA to access financial records from financial institutions, unless the CDA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)].

However, this does not apply if the applicant or participant, or any member of their family revokes their consent with respect to the ability of the CDA to access financial records from financial institutions, unless the CDA established a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5 5.232(c)].

CDA Policy

The CDA has established a policy that a family's revocation of consent to allow the CDA to access records from financial institutions will result in denial of admission.

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 and FR Notice 4/10/06, FR Notice 9/21/16]

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

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

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

Definitions

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

Dependent Child

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

Independent Student

CDA Policy

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

1. The individual is of legal contract age under state law.

2. The individual has established a household separate from their parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.

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

   - The individual is at least 24 years old by December 31 of the award year for which aid is sought.
   - The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older.
   - The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.
   - The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes.
   - The individual is a graduate or professional student.
   - The individual is married.
   - The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent).
   - The individual has been verified during the school year in which the application is submitted as either an unaccompanied, at risk of homelessness, and self-supporting by:
     - A local educational agency homeless liaison.
     - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director.
     - A financial aid administrator.
   - The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

3. The individual was not claimed as a dependent by their parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
4. The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

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

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

Institution of Higher Education

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

Parents

CDA Policy

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

Person with Disabilities

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

Veteran

CDA Policy

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

Vulnerable Youth

CDA Policy

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

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

Determining Student Eligibility

If a student is applying for assistance on their own, apart from their parents, the CDA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the CDA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from their 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.

CDA Policy

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

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

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

Determining Parental Income Eligibility

CDA Policy

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

- If the student's parents are married and living together, the CDA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the CDA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the CDA will obtain an income declaration and certification of income from each parent.

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

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

3-II.F. EIV SYSTEM SEARCHES [EIV FAQs; EIV FAQ's; EIV System Training 9/30/20 and Notice PIH 2023-27]

Existing Tenant Search

Prior to admission to the program, the CDA must search for all household members using the EIV Existing Tenant Search module. The CDA must review the reports for any SSA matches involving another CDA or a multifamily entity and follow up on any issues identified. The CDA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the CDA, and a match is identified at a multifamily property, the CDA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

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

Debts Owed to CDAs and Terminations
All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations. Prior to admission to the program, the CDA must search for each adult family member in the Debts Owed to CDAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the CDA directly in writing to dispute the information and provide any documentation that supports the dispute. If the CDA determines that the disputed information is incorrect, the CDA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

CDA Policy
The CDA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

The CDA will search the Debts Owed to CDAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the CDA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

EIV Income Report
For each new admission, the CDA is required to review income information in EIV to confirm and validate family reported income within 120 days after the admission information is transmitted to HUD. The CDA must print and maintain copies of the reports in the tenant file and resolve any discrepancies with the family.

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. The CDA may deny assistance for an applicant because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the CDA, and those in which denial of assistance is optional for the CDA.

While the regulations state that the CDA must prohibit admission for certain types of criminal activity and give the CDA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, the CDA may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds the CDA of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a CDA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the CDA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the CDA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.

CDAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a CDA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the CDA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

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

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

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

- Race, color, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program.
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the CDA's jurisdiction under portability. (See Chapter 10, Portability.)

- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- Whether the family includes children.
- Whether a family decides to participate in a family self-sufficiency program.
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking 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) and 24 CFR 982.552(b)(6)]

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

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

  CDA Policy

  The CDA will admit an otherwise-eligible family who was evicted from federally assisted housing within the past three years for drug-related criminal activity if the CDA is able to verify that the household member who engaged in the criminal activity is no longer living in the household.

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

  CDA Policy

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

- The CDA 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.

  CDA Policy

  In determining reasonable cause, the CDA 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 record, or records, of arrest will not be used as the sole basis of determining reasonable cause. The CDA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

  CDA Policy

  If 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, the family will be denied assistance.

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

- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

Upon the CDA's HOTMA 102/104 compliance date, the following section on the asset limitation is added. The asset limitation does not apply until the CDA's HOTMA compliance date.

3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]
There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed the HUD-published asset limitation amount (adjusted annually by HUD).

- This amount is listed in HUD's current year Inflation-Adjusted Values tables
- $100,000 for 2024, $103,200 for 2025

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

The CDA does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
    - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the CDA must comply with all the confidentiality requirements under VAWA. The CDA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered suitable for occupancy unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

CDA Policy

The CDA defines *not sufficient for the size of the family* as being overcrowded based on space standards in Chapter 8 of this policy.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the CDA or owner);

  CDA Policy

  In general, the CDA defines a *geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The CDA will consider circumstantial details a family faces when determining whether a geographic hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603 and Chapter 6 of this policy, it will be included in net family assets. If the value of that real property brings the net family assets above the HUD-published asset limitation amount, the family is out of compliance with the asset limitation.

See Chapter 7 for information on verifying net family assets for purposes of the asset limitation.

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

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

Criminal Activity [24 CFR 982.553]

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

CDA Policy

A family will be denied assistance, if within the past five years, any household member is currently engaged in, or has engaged in any of the following criminal activities:

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]; or

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, in the immediate vicinity, that may threaten the health or safety of

property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the CDA (including a CDA employee or a CDA contractor, subcontractor, or agent), the family will be denied assistance;

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

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse; or

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

- Any conviction for drug-related or violent criminal activity.
- Any petty misdemeanor conviction will not be considered.

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

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

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

The CDA is not permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program. [24 CFR 984.101(d)].

CDA Policy

The CDA will deny assistance to an applicant family if:

- The family does not provide information that the CDA or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to the CDA.
- Any family member has been evicted from federally assisted or CDA-owned housing in the last five years.
- Any PHA has terminated HCV assistance or the CDA has denied or terminated assistance under a rental program for any member of the family in the past two years for cause.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal or CDA housing program.
- The family owes rent or other amounts to any CDA in connection with Section 8 or other public housing assistance under the 1937 Act unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any CDA for amounts the CDA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered with the CDA or another CDA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

- When denying admission due to family debts as shown in HUD's EIV system, the CDA will provide the family with a copy of the EIV Debt Owed to CDA and Termination report.
- If the family wishes to dispute the information in the report, the family must contact the CDA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the CDA to support the family's claim. The CDA will consider the information provided by the family prior to issuing a notice of denial.

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

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

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

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

3-III.E. SCREENING

Screening for Eligibility

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

CDA Policy

The CDA will perform a criminal background check through a credible, third-party screening company for every adult household member.

While the CDA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, the CDA may not use records for this purpose.

The CDA is 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)]. Additionally, the CDA must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration in any state [Notice PIH 2012-28].

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

Screening for Suitability as a Tenant [24 CFR 982.307]

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

CDA Policy

The CDA will not conduct additional screening to determine an applicant family's suitability for tenancy.

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

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

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

CDA Policy

The CDA 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 inspection or before. The CDA will not provide any additional information to the owner, such as tenancy or criminal history, etc.

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

Evidence [24 CFR 982.553(c)]

CDA Policy

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

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

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

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

CDA Policy

The CDA will consider the following facts and circumstances prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property.
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.
- While a record, or records, of arrest(s) will not be used as the sole basis for denial, an arrest may trigger an investigation to determine whether the applicant engaged in disqualifying criminal activity. As part of its investigation, the CDA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The CDA may also consider:
    - Any statements made by witnesses, or the applicants not included in the policy report.
    - Whether criminal charges were filed.
    - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal.
    - Any other evidence relevant to determining whether the applicant engaged in disqualifying activity.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- The CDA 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. Successful rehabilitation is defined as being drug and/or alcohol free for a period of 12 months.

Removal of a Family Member's Name from the Application

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

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

CDA Policy

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

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

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

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

CDA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the CDA will determine whether the behavior is related to the stated disability. If so, upon the family's request, the CDA will determine whether admitting the family as a reasonable accommodation is appropriate. The CDA 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.G. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the CDA will notify the family in writing and schedule an applicant briefing, as discussed in Chapter 5.

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

CDA Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination. The notification will also indicate that their name will be removed from the waiting list if they fail to respond within the timeframe specified.

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

CDA Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible; the CDA will notify the family in writing of the denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information through the Informal Review process. If the family does not request an Informal Review within that 10-day period, the family's application will be denied.

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

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

3-III.H. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT DATING VIOLENCE, STALKING, HUMAN TRAFFICKING

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

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

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

Notification

VAWA requires the CDA to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

CDA Policy

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

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

The CDA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy of the HUD-5382. The CDA will request in writing that an applicant wishing to claim protection under VAWA notify the CDA within 14 business days. A language block written in 10 languages will be included informing the family of free translation services, upon their request.

Documentation

Victim Documentation [24 CFR 5.2007]

CDA Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims

of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the CDA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

Perpetrator Documentation

CDA 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:

1) A signed statement requesting that the perpetrator be removed from the application and certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit.
2) 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 their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

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

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

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

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) In General

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

  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

  (ii) is manifested before the individual attains age 22;

  (iii) is likely to continue indefinitely;

  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and

  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  (B) Infants and Young Children

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

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

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

(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; genito-urinary; hemic and lymCDAtic; skin; and endocrine; or

(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 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.

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

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

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

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

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

(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

(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 student's persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

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

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

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

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

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

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

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

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet

the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

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

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

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

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

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

(B) Advisory panel

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

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

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

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

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

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

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

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

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

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

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive

the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

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

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

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

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

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

(b) Proprietary institution of higher education

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

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

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

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

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

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

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

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

(c) Postsecondary vocational institution.

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

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

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

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

(2) Additional institutions. The term ''postsecondary vocational institution'' also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular student's

persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

CHAPTER 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive assistance under the HCV assistance, the family must submit an application that provides the CDA with the information (income, residency, Social Security numbers) needed to determine the family's eligibility. HUD requires the CDA to place all eligible families that apply for assistance on a waiting list. When HCV assistance becomes available, the CDA must select families from the waiting list in accordance with HUD requirements and CDA policies as stated in the administrative plan and the annual plan.

The CDA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the CDA that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the CDA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the CDA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and CDA 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 the CDA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how the CDA'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 the CDA will use to keep the waiting list current.

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

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the CDA policies for making applications available, accepting applications, making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the CDA'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 – 4-16, Notice PIH 2009-36]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the CDA 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 CDA. The CDA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the CDA's application.

CDA Policy

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the CDA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. Upon selection the family will be required to complete a full application and provide all information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

When the CDA is accepting applications, families will be required to apply using a web-based application. Applications must be complete to be accepted by the CDA for processing. As a reasonable accommodation, applications may be requested in an alternative format.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

The CDA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard CDA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The CDA must provide reasonable accommodation for the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the CDA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the CDA's policies related to providing reasonable accommodation for people with disabilities.

Limited English Proficiency

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

4-I.D. PLACEMENT ON THE WAITING LIST

The CDA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. When applicable, if the family is determined to be ineligible, the CDA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

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

CDA Policy

The CDA will notify an applicant when their application has been approved for placement on the waiting list.

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

Applicants will be placed on the waiting list according to the date and time of application, after applying any eligible preferences.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

In addition, HUD imposes requirements on how the CDA may structure its waiting list and how families must be treated if they apply for assistance from a CDA that administers more than one assisted housing program.

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

The CDA's HCV waiting list must be organized in such a manner to allow the CDA to accurately identify and select families for assistance in the proper order, 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 (project-based assistance);
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the CDA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such CDAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

CDA Policy

The CDA will maintain a single waiting list for the HCV program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher, or moderate rehabilitation program the CDA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that the CDA maintain a single merged waiting list for their public housing, Housing Choice Voucher (Section 8), and other subsidized housing programs.

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

CDA Policy

The CDA will establish and maintain a separate list for project-based voucher assistance. During the HCV application process, this waiting list is available for selection.

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

Closing the Waiting List

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

CDA Policy

If the CDA closes the waiting list the CDA may elect to advertise the opening and closing of the list in one advertisement for a defined period. The CDA may continue to accept applications from applicants from a particular preference or funding criteria while closing the waiting list to others.

The CDA will give public notice by publishing the relevant information in suitable local media outlets and on the CDA website at www.dakotacda.org.

Reopening the Waiting List

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

CDA Policy

The CDA will announce the reopening of the waiting list at least 10 business 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.

The CDA will give public notice by publishing the relevant information in suitable local media outlets and on the CDA website at www.dakotacda.org.

If the CDA opens the HCV waiting list for a specific preference group a public notice will be placed on the CDA website at www.dakotacda.org.

4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

The CDA must conduct outreach as necessary to ensure that the CDA has enough applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the CDA to admit a specified percentage of extremely low-income families to the program (see Chapter 4, Part III), the CDA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

CDA 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.

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

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

CDA Policy

The CDA will monitor the characteristics of the population being served and the characteristics of the population in the CDA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

CDA Policy

While the family is on the waiting list, the family must immediately inform the CDA of changes in contact information, including current residence, mailing address, email, and phone number.

An applicant may at any time report changes in their applicant status including changes in family composition, income, or preference factors. The Dakota County CDA will update the applicant's file and their place on the waiting list, if applicable.

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

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

Purging the Waiting List

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

CDA 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, the CDA will send a notice via email to each family on the waiting list to determine whether the family continues to be interested in the program. This notice will be sent to the last email address that the CDA has on record for the family.

If the family fails to respond by the deadline provided, the family will be removed from the applicable waiting list being updated by the Housing Assistance Department without further notice.

If the notice is returned as undeliverable, the applicant will be removed from the applicable waiting list being updated by the Housing Assistance Department without further notice.

- If the family contacts the CDA within 30 days of removal, the family will be placed back on the waiting list(s).
- If the family is removed from the waiting list for failure to respond, the CDA may reinstate if it is determined it was due to CDA error, or due to circumstances beyond the applicant's control, as a result of a family member's disability, or as a direct result of the status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse.

Removal from the Waiting List

CDA Policy

- If at any time an applicant family is on the waiting list, the CDA determines that the family is not eligible for assistance (see Chapter 3); the family will be removed from the waiting list.
- If at any time an applicant family requests that their name be removed from the waiting list, the family will be removed from the waiting list.
- If a family is removed from the waiting list because the CDA has determined the family is not eligible for assistance or has failed to comply with a request for information, as it relates to preference or other eligibility components, a notice will be sent to the family's email address of record. If the notice is returned undeliverable, the applicant will be removed from all waiting lists, administered by the Housing Assistance Department, without further notice.
    - The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the CDA's decision (see Chapter 16) [24 CFR 982.201(f)].

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

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

The order in which families are selected from the waiting list depends on the selection method chosen by the CDA and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

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

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the CDA may admit such families whether they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The CDA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

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

CDA Policy

The CDA administers the following types of HUD targeted funding; Emergency Housing Vouchers, Family Self-Sufficiency, Family Unification Program, Mainstream, Project-Based Voucher and Veterans Affairs Supportive Housing.

The CDA administers the following types of targeted local funding:

Lincoln Place rental assistance, Dakota County Voucher Rental Assistance Program.

Regular HCV Funding

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

4-III.C. SELECTION METHOD

The CDA must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the CDA will use [24 CFR 982.202(d)].

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

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

CDA Policy

When applicable, preferences apply to applicants active on the waiting list prior to the qualifying event (e.g. insufficient funding or involuntary displacement). The CDA has adopted the following category of preferences:

INSUFFICIENT FUNDING (30 POINTS)

The CDA will offer a preference to any family that has been terminated or is at imminent risk of being terminated from the following programs due to insufficient funding:

- CDA administered Housing Choice Voucher

INVOLUNTARY DISPLACEMENT (20 POINTS)

The CDA will offer a preference to any family residing in Dakota County that has been involuntarily displaced due to:

- fire, flood, or tornado where an entity (i.e., fire department, insurance company, etc.) has deemed the unit uninhabitable.
- A natural disaster or otherwise formally recognized pursuant to Federal disaster relief laws.
- Federal, state, or local government action related to code enforcement, public improvement, or redevelopment.

LOCAL HOUSING NEED (20 POINTS)

This category is limited to 24 households admitted per calendar year.

The CDA will offer a preference to any family that meets one of the following criteria and is receiving rental assistance from Dakota County Supportive Housing Unit's administered Continuum of Care program, when their assistance is ending due to the mandatory 24-month participation maximum;

- Residing in Dakota County;
- Working in Dakota County;
- Experienced homelessness in Dakota County prior to placement in Rapid Rehousing.
- Currently open to Dakota County Social Services or a Dakota County contracted service provider

PUBLIC HOUSING DISPLACEMENT (20 POINTS)

The CDA will offer a preference to families residing in CDA Public Housing who are required to move and cannot be placed in another public housing unit. This preference is not available to families being evicted from a public housing unit.

FUP, PBV AND VASH REFERRAL PREFERENCE (10 POINTS)

When a voucher, or PBV unit, is available, the CDA will accept referrals from, or send referrals to, the following entities:

- FUP: Dakota County Child Protection
- PBV: Right size voucher is referred to applicable property where unit is available
- VASH: Veterans Administration Housing unit

MAINSTREAM REFERRAL PREFERENCE (5 POINTS)

When a voucher is available, the CDA will offer preference to a household that consists of, at least one, non-elderly (ages 18-62) adult with disabilities.

For a non-elderly adult with disabilities to receive preference on the waiting list they must meet one of the following criteria:

- Transitioning out of institutional or segregated settings, or;

- At serious risk of institutionalization due to a public entity's failure to provide community services or its cuts to services will likely cause a decline in health, safety or welfare that would lead to the individual's eventual placement in an institution, or;
- Homeless or will imminently lose their primary residence, or;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against an individual, or a family member, that has either taken place within the primary residence or has made the individual afraid to return to the primary residence. The person must have no other residence or lack the resources or support networks to obtain permanent housing, or;
- In permanent housing or rapid rehousing projects who no longer need the level of services provided.

RESIDENCY PREFERENCE (1 POINT)

The CDA will offer a preference point to any family who, during the application process, certify that they are Dakota County residents or have community roots. [24 CFR 100.80] Community roots is defined as applicants who live, or whose head-of-household, spouse, or co-head work in Dakota County. The employer must be located within Dakota County. An applicant who does not have a permanent residence in Dakota County will be given the preference if they actively receiving benefits from Dakota County Employment & Economic Assistance (E&EA), such as DWP, GA, MFIP, MSA, and SNAP.

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

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

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

CDA Policy

The CDA will monitor progress in meeting the income targeting requirement throughout each 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

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

CDA Policy

- Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the CDA's hierarchy of preferences.
- Within each targeted funding or preference category, families will be selected by position determined by lottery or on a first-come, first-served basis according to the date and time their complete application is received by the CDA. When the CDA's waiting list is open, and waiting list selections are needed, 95% of will be preference applicants and 5% non-preference.
- Documentation will be maintained by the CDA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the CDA does not have to ask higher placed families each time targeted selections are made.

4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the CDA must notify the family [CFR 982.5554(a)].

CDA Policy

The CDA will notify the family by email when it is selected from the waiting list. The notice will inform the family of the following:

- How to log into the online portal to complete the application process.
- All documents that must be provided, including what constitutes acceptable documentation.

If an undeliverable message is returned to the CDA, the family will be removed from the applicable waiting list being updated by the Housing Assistance Department without further notice. If the family contacts the CDA within 30 days of removal, the family will be placed back on the waiting list.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that the CDA obtain the information and documentation needed to make an eligibility determination through a face-to-face interview with a CDA representative [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

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

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

CDA Policy

- The CDA does not require attending an interview when selected from the waiting list.
- The head of household or spouse/co-head must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity).
    - If the family representative does not provide the required documentation, they will be required to provide it within 10 business days.

- Pending disclosure and documentation of social security numbers, the CDA will allow the family to retain its place on the waiting list for 90 days.
    - If not, all household members have disclosed their SSNs by that time, the CDA will deny assistance and remove the family's name from the waiting list.

- The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, and must complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the CDA will provide the family with a list of items that must be submitted. (Chapter 7 provides details about longer submission deadlines for items, including documentation of eligible noncitizen status).
    - If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.
    - If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).
- An advocate, interpreter, or other assistant may assist the family with the application and document submission.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

CDA Policy

- If the CDA determines that the family is eligible to receive assistance, the CDA will invite the family to attend a briefing in accordance with the policies in Chapter 5.
- If the CDA determines that the family is ineligible, the CDA will send written notification of the ineligibility determination within 10 business days of the determination.
    - The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review (Chapter 16).
- If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g., targeted funding, extremely low-income), the family will be returned to its appropriate position on the waiting list.
    - The CDA will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

CHAPTER 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

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

This chapter describes HUD regulations and CDA 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 the CDA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families must locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

HUD regulations require the CDA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the CDA'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. The CDA must take reasonable steps to ensure meaningful access by persons with Limited English proficiency.

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

Notification of Briefing

Prior to issuance of a voucher, the CDA 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 in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

CDA Policy

Families will be notified of their eligibility for assistance at the time they are invited to a briefing. The notice will be sent by email.

The notice will advise the family of the type of briefing, who is required to be present at the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements for in-person or remote briefings in relevant policy elsewhere in this section.

In-Person Briefings

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

CDA Policy

- Briefings will generally be conducted in group meetings.
- All adult members are encouraged to attend the briefing.
- Families that attend group briefings and still need individual assistance will be referred to a new admissions housing specialist.
- Briefings will be conducted in English. For limited English proficient (LEP) applicants, the CDA will provide interpretation services in accordance with the CDA's LEP plan (See Chapter 2).
- If an applicant with a disability requires auxiliary aids to gain full benefit from the briefing, the CDA will furnish such aids where doing so would not result in a fundamental alteration of the nature of the program or in an undue financial or administrative burden. In determining the most suitable auxiliary aid, the CDA will give primary consideration to the requests of the applicant.
- An applicant unable to attend a briefing due to a disability may request a reasonable accommodation such as having the briefing presented at an alternate location.

Attendance

CDA Policy

- Applicants who fail to attend a scheduled in-person briefing may be scheduled for another briefing. The CDA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings without prior CDA approval, will be denied assistance (see Chapter 3).

Remote Briefings [Notice PIH 2020-32]

Remote briefings may be conducted via telephone, video conferencing, or through other virtual platforms.

CDA Policy

The CDA has the sole discretion to require that briefings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster. If the CDA schedules a remote briefing, the CDA will conduct a face-to-face briefing upon request of the applicant as a reasonable accommodation for a person with disability if safety and health concerns can be reasonably addressed.

In addition, the CDA will conduct a briefing remotely upon request of the applicant as a reasonable accommodation for a person with a disability. The CDA will consider other reasonable

requests for a remote briefing on a case-by-case basis.

Accessibility Requirements for Persons with Disabilities and LEP Individuals

As with in-person briefings, the platform for conducting remote briefings must be accessible and the briefing conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

If no method of conducting a remote briefing is available that appropriately accommodates an individual's disability, the CDA may not hold against the individual their inability to participate in the remote briefing, and the CDA should consider whether postponing the remote briefing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances.

Limited English Proficiency (LEP) requirements also apply to remote briefings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote briefings.

Conducting Remote Briefings

The CDA must ensure that the lack of technology or inability to use technology for remote briefings does not pose a disadvantage to families that may not be apparent to the CDA. The CDA must ensure that the family has appropriate technological access in order to fully participate in the remote briefing.

CDA Policy

At least 10 business days prior to scheduling the remote briefing, the CDA will provide written notification via first class mail and/or email to families participating in the briefing to advise of technological requirements and to request the family notify the CDA of any known barriers. If any family does not respond within five business days, or if the written notification is returned by the post office or the email is rejected, the CDA will contact the family by telephone to identify potential technological barriers and to determine which technology resources are accessible to the family. The CDA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

The CDA will conduct remote briefings via a video conferencing platform when available. If applicants are unable to adequately access the video conferencing platform, the briefing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in, the remote briefing will be postponed, and an in-person alternative or one-on-one briefing over the phone will be provided.

The CDA will provide login information and/or conferencing call-in information and an electronic copy of the briefing packet via email at least five business days before the briefing. The CDA will provide a paper copy of the briefing packet upon family request and may reschedule the briefing to allow adequate time for the family to receive the physical briefing packet.

The CDA will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring personally identifiable information (PII) is protected.

The CDA will ensure that families who participate in remote briefings can ask questions as part of the briefing.

If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with the CDA.

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 the CDA's jurisdiction and any information on selecting a unit that HUD provides.
- An explanation of how portability works.
- The CDA must inform families 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 a family's assistance; and
- An explanation of the advantages of areas that do not have a high concentration of low-income families.

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

- The CDA must take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6 and 28 CFR part 35, subpart E, and must provide information the reasonable accommodation process.

  CDA Policy

  In addition to the above topics, the CDA will also provide information on the following subjects:

  - When CDA-owned units are available for lease, the CDA will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a CDA-owned unit;
  - Types of eligible housing;

- An explanation that the family share of rent and utilities may not exceed 40% of the family's monthly adjusted income; and
- Copy of the oral briefing PowerPoint presentation.

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

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

- The term of the voucher, voucher suspensions, and the CDA's policies on any extensions of the term. If the CDA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the CDA determines the payment standard for a family and; how the CDA determines total tenant payment for a family.
- An explanation of how the CDA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy**,** and an explanation of how to requests approval.
- A statement of the CDA policy on providing information about families to prospective owners.
- The CDA subsidy standards and when the CDA will consider granting exceptions as allowed by 24 CFR 982.402(b)(8), and when exceptions are required as a reasonable accommodation for persons with Disabilities under Section 504, the Fair housing Act, or the Americans with Disabilities Act (ADA).
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled, "A Good Place to Live").
- Information on federal, state, and local equal opportunity laws, the contact information for the Section 504 coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation or modification (including information on requesting exception payment standards as a reasonable accommodation) under Section 504, the Fair Housing Act, or the American with Disabilities Act (ADA).
- A list of landlords known to the CDA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the CDA that may assist the family in locating a unit. The CDA must ensure that the list of landlords or other resources covers areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the CDA is subject to requirements under 24 CFR 8.28(a)(3) to provide a current listing of accessible units know to the CDA, and if necessary, other assistance in locating an available unit.
- The family obligations under the program.
- CDA informal hearing procedures including when the CDA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families, which may include access to accessible and high-quality housing, transit, employment opportunities, educational opportunities, recreational facilities, public safety stations, retail services, and health services.
- The HUD pamphlet on lease-based paint entitled, "Protect Your Family from Lead in Your Home" [24 CFR 35.88].

Since the CDA is in a metropolitan area, the following additional information is included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)].

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

Additional Items to Be Included in the Briefing Packet

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

CDA Policy

The CDA provides a link to the CDA's website that contain the HCV Participant Handbook and additional applicable resources.

5-I.C. FAMILY OBLIGATIONS

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

Time Frames for Reporting Changes Required by Family Obligations

CDA Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the CDA of a change, notifying the CDA of the request or change within 10 business days is considered prompt notice.

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

Family Obligations [24 CFR 982.551]

The family obligations of the voucher are listed as follows:

- The family must supply any information that the CDA 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 CDA 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 may be held responsible for a breach of Housing Quality Standards (HQS) caused by the family's 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.

  CDA Policy

  Damages beyond normal wear and tear will be damages which could be assessed against the security deposit or presented to a court for judgment.
- The family must allow the CDA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family, any household member, or guest must not commit any serious or repeated violation of the lease.

  CDA Policy

  The CDA will determine if a family, household member, or guest 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 of lease termination, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

  Serious and repeated lease violations will include, but are not limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].
- The family must notify the CDA and the owner before moving out of the unit or terminating the lease.

  CDA Policy

  The family must comply with lease requirements regarding written notice to the owner. The family must provide a 60 + 1-day written notice to the CDA at the same time the owner is notified.
- The family must promptly give the CDA a copy of any notice of lease termination they receive from the owner or Summons and Complaint in an eviction action filed by the owner.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

  CDA Policy

  The family may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses.

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

  CDA Policy

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

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

  CDA Policy

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

- The family must supply any information requested by the CDA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the CDA when the family or a family member is absent from the unit.

  CDA Policy

  Except as a reasonable accommodation to a disability generally no family (any member) may be absent from the unit for more than 30 consecutive days. If the family (any member) is absent from the unit for more than 30 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F. A reasonable accommodation for a person with a disability may be requested for an exception to this policy.

  When requesting a reasonable accommodation to a disability a written request should be submitted to the CDA a minimum of 30 days prior to when absence is planned.

  To obtain CDA approval, the family must:

  1. Satisfy notice requirements;
  2. Provide documentation acceptable to the CDA regarding the length of absence and the reason for the absence;
  3. Affirm their intent to return to the unit at the end of the leave period;
  4. Agree to be responsible for receiving and responding to all notices sent by the CDA to the unit during periods of absence;
  5. Pay rent to the owner and pay for utilities while they are absent, and
  6. Make arrangements for the unit to be available for CDA inspections as necessary.

If this procedure is not followed, the unit will be considered abandoned and the CDA will terminate housing assistance payments and the family's participation in the program.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- 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 CDA 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 CDA 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 CDA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide a reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

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

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

For each family, the CDA is required to establish the appropriate number of bedrooms to determine the CDA subsidy standards and enters the family voucher size on the voucher that is issued to the family. The family voucher size does not dictate the size of unit the family must lease, nor does it determine who within a household will share a bedroom/sleeping room.

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

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.

- The subsidy standards must be consistent with space requirements under 24 CFR 5.703.
- 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 voucher size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the CDA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family voucher size.
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the CDA subsidy standards.

  CDA Policy

  The CDA will assign the first bedroom to head of household and spouse/co-head, if applicable.

  Thereafter, the CDA will assign one bedroom for each of the two persons within the household, as shown in the following chart.

Subsidy Standard Number of Bedrooms	Number of Persons
1	2
2	4
3	6
4	8

The following circumstances are exceptions:

- Live-in aides will be allocated a separate bedroom.
- Single-person families will be allocated one bedroom.
- Foster adults and foster children will be allocated separate bedrooms.
- Families receiving PBV assistance may accept a smaller unit than the voucher size qualified for, if occupancy standards are not exceeded. For example, a household composition of head of household and three minor dependents would qualify for a 3-bedroom subsidy standard. However, the household could accept a 2-bedroom PBV unit as occupancy standards would not be exceeded.
- Families receiving PBV assistance may choose to remain in a smaller unit that is not overcrowded.
- Families receiving PBV assistance, at the time the subsidy standards were updated on October 9, 2021, that would be negatively impacted (i.e., requiring a move) will not be required to right size. Subsequent household changes, not related to the subsidy standard update, that result in a change to the voucher size, will require right sizing the unit. (For example, if a head of household and two minor children reside in a 3-bedroom unit and one of the children vacates the unit, the household will need to move to a 2-bedroom unit.)

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family voucher size for a particular family, the CDA may grant an exception to its established subsidy standards if the CDA determines that the exception is justified by the age, sex, health,

handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)].

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

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].

CDA Policy

- The CDA will consider granting an exception for reasons of medical equipment, health and/or handicap.
- The family must request any exception to the subsidy standards in writing.
    - The request must explain the need or justification for a larger family unit size and must include appropriate documentation.
    - Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability–related need for accommodation is readily apparent or otherwise known.
- The family's continued need for an additional bedroom as a reasonable accommodation must be re-verified at every annual reexamination.
- The CDA will notify the family of its determination.
    - If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.
- The family may select a rental unit which is larger or smaller than the assigned subsidy standard. If the unit selected by the family is different than their voucher size, the payment standard of the lesser of the two will be applied to determine the housing assistance payment.

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

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

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the CDA has determined the family to be eligible for the program, and that the CDA expects to have money available to subsidize the family if the family finds an approvable unit. However, the CDA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the CDA's Housing Choice Voucher program. [Voucher, Form HUD-52646]

The CDA must issue the family a voucher within 60 days of determining the family eligible [24 CFR

982.201(e)]. The income documentation must be dated within 120 days of when it was received by the CDA. However, for fixed-income sources, including Socia Security benefits, the documentation must be dated within the appropriate benefit year.

CDA Policy

- Vouchers will be issued to eligible applicants immediately following the mandatory briefing.
- If at the time of the briefing, the CDA is made aware of household changes, the CDA retains the right to withhold issuing the voucher until eligibility can be re-determined.

The CDA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the CDA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

CDA Policy

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

5-II.E. VOUCHER TERM AND EXTENSIONS

Voucher Term [24 CFR 982.303]

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

CDA Policy

- The initial voucher term will be 120 calendar days for applicants selected from the waiting list.
- The initial voucher term for a participant will be 120 calendar days.
- The family must submit a Request for Tenancy Approval and proposed lease within the voucher term unless the CDA grants an extension.

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

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

The CDA 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 this purpose.

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

CDA Policy

- Applicants and Participants exhausting their 120 days of search time may request up to two 30-day extensions of the voucher as a reasonable accommodation of disabilities. The CDA

will approve extensions only if it is necessary as a reasonable accommodation for a person with disabilities.

- For consideration of an extension, the CDA must be provided documentation showing the nexus between the disability and the request for additional search time. The request should be made prior to the expiration date.
- The CDA will decide whether to approve or deny any extension request and will immediately provide the family written notice of its decision.

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

The CDA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for CDA approval of the tenancy until the date the CDA notifies the family in writing whether the request has been approved or denied.

Expiration of Voucher Term

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the CDA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

CDA Policy

If an applicant family's voucher term or extension expires before the CDA has approved a tenancy, the CDA will require the family to reapply for assistance. After the expiration of the voucher term or any extension, the CDA will notify the family in writing that the voucher term has expired and that the family must reapply, when the waiting list is open, in order to be placed on the waiting list.

CHAPTER 6.A.

INCOME AND SUBSIDY DETERMINATIONS

[24 CFR PART 5, SUBPARTS E AND F; 24 CFR 982]

INTRODUCTION

This chapter is applicable to the CDA's HOTMA 102/104 compliance date. After this date, the CDA will follow policies as outlined in Chapter 6. B of the Administrative Plans.

The program regulations in the current Code of Federal Regulations (CFRs) were updated for HOTMA on January 1, 2024. As a result, pre-HOTMA regulations from 2023 are no longer available on electronic CFRs. However, since full HOTMA implementation is still pending, the pre-HOTMA regulations continue to apply to some elements of the program, and this chapter makes references to both pre-HOTMA and HOTMA regulations where applicable. Where HOTMA regulations apply, citations in this chapter have been provided indicating that current HOTMA CFRs are applicable. For all other citations, the pre-HOTMA CFRs apply. The federal government archives previous versions of the CFRs, and CDAs may access them here: https://www.govinfo.gov/app/collection/cfr/2023/title24.

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

- Part I: Annual Income. HUD regulations specify the sources of income which are excluded from a family's annual income. These requirements and CDA policies for calculating annual income are found in Part I.
- Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and CDA policies for calculating income from assets are found in Part II.
- Part III: Adjusted Income. Once annual income has been established HUD regulations require the CDA to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the CDA to adopt additional permissive deductions. These requirements and CDA policies for calculating adjusted income are found in Part III.
- Part IV: Calculating Family Share and CDA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining CDA subsidy and required family payment.

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PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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 [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.

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 (as updated for HOTMA per Notice PIH 2024-38) (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- The Effect of Welfare Benefit Reduction (Exhibit 6-4)

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 purpose of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(b)(8) as updated for HOTMA].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(b)(8) as updated for HOTMA].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3) as updated for HOTMA]. All sources of income, except those specifically excluded by the regulations, are included.

Full-time students 18 years of age or older (not head, spouse, or co-head)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14) as updated for HOTMA]. All sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define "temporarily" or "permanently" absent or specify a timeframe associated with a temporary versus permanent absence.

CDA Policy

Unless specifically excluded by the regulations, the income of all family members approve to live in the unit will be counted, even if the family member is temporarily absent from the unit.

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

If the CDA removed a member from the household and a subsequent request is submitted within 180 days of the removal date, that the individual be added back as a member, the CDA may consider the person was temporarily absent and the household could be required to repay benefits overpaid.

Absent Student

CDA 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 under the following circumstances: 1) they reside in housing provided by the educational institution only for students of that institution, AND 2) they live in the assisted unit at least three consecutive months of the year during which time they do not maintain a separate student residence.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

CDA Policy

If a child has been placed in foster care, the CDA will verify with the appropriate agency whether and when the child is expected to be returned home. If the agency confirms that the child has been permanently removed from the home, or if the child has been added to another assisted household, the child will not be considered a family member.

Absent Head, Spouse, or Co-Head Due to Employment

CDA Policy

An employed head, spouse, or co-head absent from the unit more than 180 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 GB, p. 5-22].

CDA Policy

The CDA will request verification from a responsible medical professional and will use this in making its determination. If the responsible medical professional cannot provide a conclusive statement, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

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

Joint Custody of Dependents

CDA 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 family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the CDA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

CDA Policy

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

(1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will be considered a family member provided they meet all other eligibility criteria.

(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 90 days while waiting for a determination of custody or legal guardianship. If no formal assignment of custody is made, an extension may be granted or assistance to the household may be suspended by the CDA. Once a formal determination has been made, the voucher will transfer to the adult who has been awarded legal custody or guardianship provided they meet all other eligibility criteria.

(3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker provided they meet all other eligibility criteria.

(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.

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal, or cyclic income) [24 CFR 5.609(d)]
- The CDA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)

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

CDA Policy

When EIV is obtained and the family does not dispute the EIV employer data, the CDA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, for wages other than tips, if the CDA knows the start date of employment, the year-to-date earnings will be used to calculate the projected annual income. The family must provide one original pay stub, dated within 30 days of the date it is provided to the CDA.

If the CDA determines that it cannot accurately calculate the projected annual income, the CDA may request that the family provide originals of the three most current, consecutive pay stubs (i.e., employment wages that are sporadic, seasonal, or status change from part time-full time etc.) dated within the last 60 days of the reexamination interview date. If necessary, the CDA will request traditional third-party verification forms(s).

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

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If the CDA determines additional information is needed.

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

When the CDA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, previous patterns of stopping and starting employment, or suspected fraud), the CDA 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 the CDA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

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

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

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

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

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27; Notice PIH 2024-38]
The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24) as updated by HOTMA].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, Social Security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100 as updated for HOTMA].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)as updated by HOTMA] Income earned as a day laborer is not considered nonrecurring income.

A *seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b) as updated by HOMTA]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27] Income earned as a seasonal worker is not considered nonrecurring income.

CDA Policy

The CDA will include in annual income the gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, the CDA will verify, and then average amounts received for the one-year preceding admission or interim reexamination. The family may provide, and the CDA 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, the CDA 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 except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11) as updated for HOTMA].

Homeownership-Option 10 Year Asset Exclusion

If a participant purchases a home using the Section 8 Homeownership option, the value of this asset shall be excluded from the income calculation for the first ten years of ownership from the closing date. For all re-certifications occurring after ten years of ownership, the value of the asset shall equal the fair market value of the property minus any loans on the property and minus 10% of the fair market value of the property (expenses to convert to cash as determined by PIH Notice 2012-3).

The fair market value of the property will be determined by the assessed value as determined by the City, Town, or Village Assessor if the assessed value is made at market value. This market value will be obtained by reviewing and documenting the local assessment roll or the owner's most recent property tax bill. If a market value tax assessment is not available, then the CDA will use the sales comparison method examining at least three comparable properties in the surrounding (or similar) neighborhood that possess comparable factors that affect market value.

For determining the loans on the property, the CDA will first try to verify the current payoff amount of the loan(s) included on the participant's monthly mortgage statement. If the payoff amount is not available, the CDA may deduct the loan balance from the market value and document the file as to the method used.

Types of Earned Income Not Counted in Annual Income

Earnings of a Minor [24 CFR 5.609(b)(3) as updated for HOTMA]

A minor is a member of the family, other than the head of household or co-head/spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Earned Income of Full-Time Students [24 CFR 50609(b)(14) as updated for HOTMA]

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations are included.

A family member other than the head of household and co-head/spouse is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, *Lease Requirements,* p. 5].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(b)(8) as updated for HOTMA]. (See Eligibility chapter for a full discussion of live-in aides.)

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617, Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the CDA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

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 their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

Calculation Method

Initial 12-Month Exclusion

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

CDA Policy

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

Second 12-Month Exclusion

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

CDA Policy

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

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time the initial exclusions period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and housing choice voucher assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstance will a family member's exclusion period continue past January 1, 2026.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(28) as updated for HOTMA; Notice PIH 2023-27]

Annual income includes "the net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

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".

CDA Policy

To determine business expenses that may be deducted from gross income, the CDA 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 herein.

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

Business Expansion

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

CDA Policy

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

Capital Indebtedness

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

CDA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the CDA 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 the annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

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

CDA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the CDA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

CDA Policy

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

Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

Introduction

The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. For public housing residents, all income received under Title IV of the HEA must be excluded from income. Other student financial assistance may be included depending on the students actual covered costs to For Section 8 programs, including HCV, however, for over 10 years HUD appropriations have included a provision that for

Section 8 students who are age 23 and under and without dependent children, any amounts received in excess of tuition and any other required fees and charges must be considered income. Under HOTMA, HUD has interpreted this limitation to apply when the student is the head of household or spouse, but not when the student resides with their parents [71 FR 18146].

For any funds from a year where HUD's appropriations continue to include this Section 8 student financial assistance limitation, if the student does not reside with their parents is the head of household, cohead, or spouse, and is under the age of 23 or without dependent children, then both the assistance received under Title IV HEA and other student financial assistance received by the student is included as income to the extent that it exceeds the total of tuition and any other required fees and charges.

In contrast, student financial assistance received by a Section 8 student who is the head of household, spouse, or cohead, and is over the age of 23 with dependent children, or a student who resides with their parents in a Section 8 unit, is governed by the HOTMA student rule, which is described below.

During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance for all Section 8 students defaults to the methodology for public housing.

HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)]
The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. The first category is any assistance to students under section 479B of the Higher Education Act of 1956 (Title IV of the HEA) which must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
    - The Higher Education Tribal Grant
    - The Tribally Controlled Colleges or Universities Grant Program

The second category is any other grant-in aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education (not otherwise excluded by the Federally mandated income exclusions) [24 CFR 5.609(b)(9)(ii)]. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is include in income.

Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;

- Including supplies and equipment to support students with learning disabilities or other disabilities

- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the CDA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government ;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed; (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

There are two steps required as part of the calculation for Section 8 students. First, determine the student's relationship to the household, age, and whether they have dependent children. Second, calculate whether any excess student financial assistance should be included in the family's income.

If the student does not live with their parents and is the head of household, cohead, or spouse, and is 23 or younger or does not have dependent children, then Title IV HEA assistance is considered when determining the student's total financial aid amount. Subtract the total tuition plus required fees and charges from the total student financial assistance (Title IV HEA assistance and any other student financial assistance). If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no student financial assistance is included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.

If the student either lives with their parents or is over 23 with dependent children, then the calculation will use the HOTMA methodology for calculating financial assistance, which always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

CDA Policy

If the student does not live with their parents and is the head of household, cohead, or spouse, and is 23 or younger or does not have dependent children, then Title IV HEA assistance will be considered when determining the student's total financial assistance to be included in annual income. The CDA will use Notice PIH 2015-21 as a guide to determine the total amount of the student's tuition plus required fees and charges. The CDA will subtract the total tuition plus required fees and charges from the total student financial assistance. If the result is zero or exceeds the amount of total financial assistance from all sources, then no student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges will be included in annual income.

Example 1

- Tuition and required fees and charges: $20,000
- Title IV HEA assistance: $10,000
- Other student financial assistance: $15,000
- Total student financial assistance: $10,000 + $15,000 = $25,000
- Included income: $25,000 in financial assistance - $20,000 tuition and required fees = $5,000

If a student is head, spouse, or cohead, and is over 23 with dependent children or lives with their parents, the following applies:

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the CDA will exclude the full amount of the assistance received under Title IV from the family's annual income. The CDA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the CDA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The CDA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The CDA will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

Example 1

- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the CDA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

Example 2

- Actual covered costs: $25,000
- Title IV HEA assistance: $26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: $5,000
- Excluded income: The entire Title IV HEA assistance of $26,000
- Included income: All other financial assistance of $5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the CDA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs - $15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: $5,000
- $7,000 in remaining actual covered costs - $5,000 in other financial assistance
- Excluded income: $15,000 entire amount of the Title IV HEA Assistance + $5,000 in other financial assistance
- Included income: $0

Example 4

- Actual covered costs: $18,000
- Title IV HEA Assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $3,000 ($18,000 in actual covered costs - $15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: $5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by $2,000 ($3,000 in actual covered costs - $5,000 in other financial assistance).
- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly). Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b) as updated for HOTMA, and thus they are included in income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any worker's compensation is always excluded from annual income, regardless of the frequency or length of the payments.

CDA Policy

The CDA will include in annual income 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.

Payments in lieu of earnings, such as unemployment and disability compensation, and severance pay are also counted as income if they are received in the form of periodic payments.

Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16) as updated for HOTMA]

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

CDA Policy

The CDA will include in annual income lump sums received as a result of delays in processing periodic payment (other than those specifically excluded by the regulations), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reports this during the period in which the CDA is processing an annual reexamination, the CDA will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the CDA is processing an annual reexamination, then the CDA will consider whether the amount meets the threshold to conduct an

interim reexamination. If so, the CDA will conduct an interim in accordance with CDA policies in Chapter 11. If not, the CDA will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26)as updated for HOTMA; Notice PIH 2023-27]

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits [Notice PIH 2018-24]

The CDA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, the CDA is required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the CDA must use the gross amount of the income, prior to the reduction, to determine e family's annual income.

CDA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the CDA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Alimony and Child Support

The CDA must count alimony and child support awarded as part of a divorce or separation agreement. Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

CDA Policy
The CDA will count court-awarded amounts for alimony and child support unless the CDA

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.

The CDA considers historical patterns to be the best indicator of future income from alimony and child support; therefore, the CDA will anticipate child support income based on the payments received in the previous 12 months unless documentation is provided by the family showing a permanent change in status (i.e., the death of the supporter or termination of the payment obligation).

6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) as updated for HOTMA and Notice PIH 2023-27)]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The CDA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for CDA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].

- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, CDAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(19) as updated for HOTMA].

6-I.J. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6-I.K. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25) as updated for HOTMA; FR Notice 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For

example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed $50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the CDA or owner chooses not to conduct the examination.

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b) as updated for HOTMA; FR Notice 1/31/2024]

Other exclusions contained in 24 CFR 5.609(b) as updated for HOTMA and FR Notice 1/31/202 that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4) as updated for HOTMA].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5) as updated for HOTMA]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6) as updated for HOTMA].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7) as updated for HOTMA].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10) as updated for HOTMA].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10) as updated for HOTMA].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11) as updated for HOTMA].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17) as updated for HOTMA]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24

CFR 5.609(b)(20) as updated for HOTMA]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21) as updated for HOTMA]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23) as updated for HOTMA].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27) as updated for HOTMA].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(i)(12)(ii) as updated for HOTMA].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i) as updated for HOTMA].
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the CDA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii) as updated for HOTMA].

Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv) as updated for HOTMA].

CDA Policy

The CDA 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 98-2, p. 3].

The CDA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the CDA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the CDA's interim reporting requirements (see Chapter 9).

- 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(b)(13) as updated for HOMTA].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15) as updated for HOTMA]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20) as updated for HOTMA].
- Amounts that HUD is required by federal statute to exclude 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(b) as updated for HOTMA apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22) as updated for HOTMA]..
- HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. It includes:
  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)). This exclusion also applies to assets.
  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.
  (c) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). This exclusion also applies to assets.

  Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).
  (d) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).

(e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506).

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

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

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

(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Sec 6).

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

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al., for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.*

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

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

(n) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets.

(o) Payments received under 38 U.S.C 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida (42 U.SC. 12637(d)).

(p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.

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

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

(r) 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). This exclusion also applies to assets.

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

For Section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and other requires fees and charges under Higher Education Act of 1965 (20 U.S.C. 1001 et esq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327 (as amended)).

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

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

(v) Any amounts in an "individual development account" are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development accounts are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).

(w) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.

(x) Distributions from an ABLE account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.

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

(z) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.

(aa) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

(ab) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the

Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

6-I.M. ASSETS [24 CFR 5.609(b)(3) ; 24 CFR 50603(b)]

Overview

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

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

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

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

General Policies

Income from Assets

The CDA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the CDA 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) the CDA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the CDA can take into consideration past rental income along with the prospects of obtaining a new tenant.

CDA Policy

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

Valuing Assets

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

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

CDA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii) as updated for HOTMA; Notice PIH 2023-27]

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The CDA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the CDA chooses not to conduct the examination.

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.

CDA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

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

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

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for the CDA to establish a passbook rate within 0.75 percent of a national average.

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

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

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

  The effective date of changes to the passbook rate will be determined at the time of the review.

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

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

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

CDA Policy
If an asset is owned by more than one person and any family member has unrestricted access to the asset, the CDA will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.
If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the CDA will pro-rate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the CDA will pro-rate the asset evenly among all owners.

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]
HUD regulations require the CDA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The *HCV Guidebook* permits the CDA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

CDA Policy

The CDA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

Separation or Divorce

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

CDA 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 has been 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.

Family Declaration

CDA Policy

Families must sign a declaration form at initial certification and each annual recertification 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. The CDA may verify the value of the assets disposed of if other information available to the CDA 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.

CDA Policy

In determining the value of checking account, the CDA will use the average monthly balance for the last three months. If not available, the CDA will use the average monthly balance based on the balances available.

In determining the value of a savings account, the CDA will use the current balance.

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

ABLE Accounts [24 CFR 5.609(b)(10) as updated for HOTMA; Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The CDA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

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

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

CDA Policy

In determining the market value of an investment account, the CDA 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), the CDA will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

CDA Policy

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

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

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

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]

- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The CDA 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 balance of the loan (mortgage) minus the expenses to convert to cash
[Notice PIH 2012-3].

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

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.
In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

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

Trusts [24 CFR 5.609(b)(2) as updated for HOTMA]
A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family are excluded from net family assets. The value of the trust continues to be excluded from net family assets so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4) as updated for HOTMA]. Further, where an irrevocable trust is excluded from net family assets, the CDA must not consider actual

income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the property is held in the trust. The CDA must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).
- A revocable trust that is not under the control of the family is excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the CDA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

CDA Policy

In determining the value of personal property held as an investment, the CDA will use the family's estimate of the value. The CDA 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, but 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)].

CDA Policy

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

Life Insurance

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

6-I.N. WELFARE ASSISTANCE

Overview

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

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

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

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

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

sanction.

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

Offsets

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

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

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

Alimony and Child Support

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

CDA Policy

The CDA will count court-awarded amounts for alimony and child support unless the CDA 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 GB, pp. 5-23 and 5-47].

The CDA considers historical patterns to be the best indicator of future income from alimony and child support; therefore, the CDA will anticipate child support income based on the payments received in the last 12 months unless documentation is provided by the family showing a permanent change in status (i.e., the death of the supporter or termination of the payment obligation).

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.

PART II: ADJUSTED INCOME

6-III.A. INTRODUCTION

Overview

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

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [CDA] must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

CDA Policy

Generally, the CDA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the CDA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the CDA will include as an eligible expense the portion of the debt that the family paid during the previous 12 months for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The CDA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or 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) as updated for HOTMA].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

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

6-II.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b) as updated by HOTMA]

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

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

Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) (as updated for HOTMA)

to mean any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed." Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting the CDA to specifically align their policies with IRS Publication 502. The CDA must review each expense to determine whether it is eligible in accordance with HUD's definition. While the CDA policy may not specifically align with IRC Publication 502, HUD recommends the CDA use it as a standard for determining allowable expenses, and the CDA may list examples of allowable expenses in their policy provided they comply with HUD's definition at 24 CFR 5.603as updated for HOTMA. The CDA may not define *health and medical care expenses* more narrowly than the regulation.

CDA Policy

The CDA will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstance will the CDA deduct any expense listed in IRS Publication 502 that does not conform with HUD's definition of *health and medical care expenses*.

Summary of Typical Allowable Health and Medical Care Expenses	
Services of medical professionals Surgery and medical procedures that are necessary, legal, and non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails) Medical insurance premiums or the cost of a health maintenance organization (HMO) Medicare Part B and Part D premiums	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses. The CDA will use the most current medical mileage rate listed in IRS Publication 502. The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) The costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.

Note: This chart provides a summary of eligible health and medical care expenses only. In all cases, the CDA will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD's definition.

Families That Qualify for Both Health and Medical Care and Disability Assistance Expenses

CDA Policy

This policy applies only to families in which the head, 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 a health and medical care or disability assistance expenses, the CDA will consider them health and medical care expenses unless 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 they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

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 [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any income disallowances or income exclusions are applied.

CDA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the CDA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

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

Eligible Disability Expenses

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

member to work" [HCV GB, p. 5-30].

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

Eligible Auxiliary Apparatus

CDA 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.

CDA 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, the CDA 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 on each activity and/or the number of persons under care.

Payments to Family Members

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

Necessary and Reasonable Expenses

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

CDA Policy

The CDA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality.

To establish typical costs, the CDA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the CDA will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Health and Medical Care and Disability Assistance Expenses

CDA Policy

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

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the CDA will consider them health and medical care expenses unless the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILDCARE EXPENSE DEDUCTION

HUD defines *childcare 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 (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted household are included when determining the childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

CDA Policy

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

In evaluating the family's request, the CDA 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

CDA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the CDA.

Furthering Education

CDA Policy

If the childcare expense being claimed is to enable a family member to further their 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, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

CDA Policy

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

Earned Income Limit on Childcare Expense Deduction

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

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

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

The CDA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

CDA Policy

When the childcare 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, the CDA generally will limit allowable childcare 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.

Eligible Childcare Expenses

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

Allowable Childcare Activities

CDA 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 after school or during school holidays (e.g.,

summer day camp, after-school sports league) are allowable forms of childcare.

- The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.
- If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the CDA will prorate the costs and allow only that portion of the expenses that is attributable to childcare 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 childcare provider, the calculation will be based upon the number of hours spent on each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare 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 their education, and (2) the family and childcare provider certify that the expenses are not paid or reimbursed by any other source.

CDA Policy

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

To establish the reasonableness of childcare costs, the CDA will use the schedule of childcare costs from a qualified local entity that either subsidizes childcare costs, or licenses childcare providers. Families may present, and the CDA will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND CDA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only, not applicable in Minnesota)
- A minimum rent between $0 and $50 that is established by the CDA

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

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

Welfare Rent [24 CFR 5.628]

CDA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

CDA Policy

The CDA has set Minimum Rent as $50.00. Minimum rent refers to the minimum total tenant payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

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

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

CDA Subsidy [24 CFR 982.505(b)]

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

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

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

CDA Policy

The CDA will make utility reimbursements to the family.

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

CDA Policy

The CDA will issue all utility reimbursements monthly.

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

Overview

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

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the CDA 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.

CDA 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.

CDA 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.

CDA 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).

(5) The family has experienced other circumstances determined by the CDA.

CDA Policy

The CDA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the CDA must suspend the minimum rent requirement beginning the first of the month following the family's request. The CDA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

CDA Policy

The CDA 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 The CDA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income	$0 30% of monthly adjusted income
$15 10% of monthly gross income	$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
$50 Minimum rent	$50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

CDA Policy

The CDA will notify all families subject to the minimum rent of their right to request a minimum rent hardship exception. 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.

The CDA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the CDA determines there is no financial hardship, the CDA will reinstate the minimum rent and require the family to repay the amounts suspended.

CDA Policy

The CDA will require the family to repay the suspended amount within 90 calendar days of the CDA's notice that a hardship exemption has not been granted.

Temporary Hardship

If the CDA determines that a qualifying financial hardship is temporary, the CDA 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 CDA the amounts suspended. HUD requires the CDA to offer a reasonable repayment agreement, on terms and conditions established by the CDA. The CDA also may determine that circumstances have changed, and the hardship is now a long-term hardship.

CDA Policy

The CDA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the CDA determines that the financial hardship is long-term, the CDA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

CDA 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 new sources of income are received that are 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.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]

Overview

The CDA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the CDA's payment standards. The establishment and revision of the CDA'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 CDA'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 CDA has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is in the exception area, the CDA must use the appropriate payment

standard for the exception area.

The CDA 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 CDA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

When the CDA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases

If the CDA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the CDA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract if the HAP contract remains in effect [FR Notice 11/16/16].

However, if the CDA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applies any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in payment standard amount. At that point, the CDA may either reduce the payment standard to the current amount in effect on the CDA's payment standard schedule or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The CDA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code area).

In any case, the CDA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The CDA's policy on decreases in the payment standard during the term of the HAP contract applies to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

CDA Policy

If the CDA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the CDA will not reduce the payment standard used to calculate the subsidy for families under HAP contract if the HAP contract remains in effect.

The CDA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size (Voucher 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 CDA can establish a higher payment standard for the family of not more than 120 percent of the published FMR.

The CDA may establish an exception payment standard of more than 120 percent of the published FMR, if required as a reasonable accommodation in accordance with 24 CFR part 8, for a family that includes a person with a disability, but in such cases, must request approval from HUD.

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A CDA-established utility allowance schedule is used in determining family share and CDA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using CDA subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the CDA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation and Individual Relief

On request from a family that includes a person with disabilities, the CDA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations.)

Further, the CDA may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as the CDA deems appropriate. The family must request the higher allowance and provide the CDA with an explanation of the need for individual relief and an explanation about the amount of additional allowance required [see HCV GB, p. 18-8].

CDA Policy

The family must request the higher allowance and provide the CDA with information about the amount of additional allowance required.

The CDA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

Excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of reasonable accommodation or individual relief, the CDA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or CDA may conduct an internet search for an estimate of usage or additional monthly cost.

At its discretion, the CDA may reevaluate the need for the increased utility allowance at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or CDA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

Utility Allowance Revisions

At reexamination, the CDA must use the current utility allowance schedule [HCV GV, p. 18-8].

CDA 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 CDA must prorate the assistance provided to a mixed family. The CDA will first determine assistance as if all family members were eligible and then pro-rate the assistance based upon the percentage of family members that are eligible. For example, if the CDA subsidy for a family is calculated at $500 and two of four family members are ineligible, the CDA subsidy would be reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) *Annual income includes, but is not limited to:*

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

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

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

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(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 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Non-recurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare 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, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS[2]

24 CFR 5.609(b) as updated by HOMA

(b) *Annual income does not include the following:*

(1) Any imputed return on an asset when net family assets are less than or equal to the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

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

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)€ of this section.

(C) Student financial assistance, for purposes of this

paragraph (b)(9)(ii) must be:

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

(2) Expressly to assist a student with the costs of higher education; or

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

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

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

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) 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);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the CDA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with 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 unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) 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.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) 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.

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

(18) 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.

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

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

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

(22) Amounts that HUD is required by Federal statute to exclude 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 paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) 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.

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, The CDA or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the CDA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the CDA, the welfare agency will inform the CDA 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 CDA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The CDA 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 CDA'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 CDA 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 CDA 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 CDA decision.*

(1) Public housing. If a public housing tenant claims that the CDA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the CDA denies the family's request to modify such amount, the CDA shall give the tenant written notice of such denial, with a brief explanation of the basis for the CDA determination of the amount of imputed welfare income. The CDA notice shall also state that if the tenant does not agree with the CDA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the CDA 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 CDA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the CDA 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 CDA denies the family's request to modify such amount, the CDA shall give the family written notice of such denial, with a brief explanation of the basis for the CDA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the CDA determination, the family may request an informal hearing on the determination under the CDA hearing procedure.

(e) *CDA relation with welfare agency.*

(1) The CDA must ask welfare agencies to inform the CDA 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 CDA 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 CDA 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 CDA. However, the CDA 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 CDA shall be entitled to rely on the welfare agency notice to the CDA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 6.B.

INCOME AND SUBSIDY DETERMINATIONS UNDER HOTMA 102/104

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

INTRODUCTION

This chapter is applicable upon the CDA's HOTMA 102/104 compliance date. Prior to this date, the CDA will follow policies as outlined in Chapter 6.A. of the Administrative Plan.

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

Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and CDA policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and CDA policies for calculating income from assets are found in Part II.

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

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

PART I: ANNUAL INCOME

6-I.A. OVERVIEW [24 CFR 5.609]

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources (other than those specifically excluded in 24 CFR 5.609(b)) by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income (other than those sources specifically excluded in 24 CFR 5.609(b)) by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values tables) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. However, when a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, the CDA must use the gross amount of the income, prior to the reduction, to determine a family's annual income [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations 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 Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

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. Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

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 in accordance with HUD regulations and CDA policies in Chapter 11. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)]. All sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)]. All sources of unearned income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define "temporarily" or "permanently" absent or specify a timeframe associated with a temporary versus a permanent absence.

CDA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

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

Absent Students

CDA 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 the CDA 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 (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

CDA Policy

If a child has been placed in foster care, the CDA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will continue to be counted as a family member.

Absent Head, Spouse, or Cohead

CDA Policy

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

Family Members Permanently Confined for Medical Reasons

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

CDA Policy

The CDA 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. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

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

Joint Custody of Dependents

CDA 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 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the CDA will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

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

(1) If a responsible agency has determined 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 90 days. After the 90 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 the CDA will extend the caretaker's status as an eligible visitor.
(3) At any time that custody or guardianship legally has been 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.

6-I.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

Anticipating Annual Income [24 CFR 5.609(c)(1)]
At initial occupancy and for an interim reexamination of family income, the CDA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

CDA Policy
When the CDA cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), the CDA 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 the CDA to show why the historic pattern does not represent the family's anticipated income.
In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the CDA annualized projected income.

Known Changes in Income

If the CDA verifies an upcoming increase or decrease in income at admission or interim reexamination, annual income will be projected by applying each income amount to the appropriate part of the 12-month period.

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

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the CDA will calculate annual income using current circumstances and then should the change in income require the CDA to conduct an interim reexamination, conduct an interim reexamination in accordance with CDA policy in Chapter 11.

Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023-27]

At annual reexamination, except where the CDA uses a streamlined income determination, CDAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with CDA policies in Chapter 11 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rental assistance. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 11.

6-I.D. EARNED INCOME

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)]. Income earned as a day laborer is not considered nonrecurring income.

A *seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income.

CDA Policy

The CDA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, the CDA will verify and then average amounts received for the two years preceding admission or interim reexamination. If only a one-year history is available, the CDA will use the prior year amounts. In either case the family may provide, and the CDA 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, the CDA will count only the amount estimated by the employer. The file will be documented appropriately.

Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

Earnings of a Minor [24 CFR 5.609(b)(3)]

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the CDA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

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 their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

Calculation Method

Initial 12-Month Exclusion

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

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

Second 12-Month Exclusion

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

> CDA Policy
> During the second 12-month exclusion period, the CDA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance

from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]

Annual income includes "net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses. Expenditures for business expansion or amortization of capital indebtedness may 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."

CDA Policy

To determine business expenses that may be deducted from gross income, the CDA 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 herein.

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)]. This may include individuals such as third-party delivery and transportation service providers and "gig workers" like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income.

Business Expansion

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

CDA Policy

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

Capital Indebtedness

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

CDA Policy

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

CDA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the CDA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

CDA Policy

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

Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

6-I.G. STUDENT FINANCIAL ASSISTANCE [FR Notice 2/14/23 and Notice PIH 2023-27]

Introduction

The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. For public housing residents, all income received under Title IV of the HEA must be excluded from income. Other student financial assistance may be included depending on the students actual covered costs to For Section 8 programs, including HCV, however, for over 10 years HUD appropriations have included a provision that for Section 8 students who are age 23 and under and without dependent children, any amounts received in excess of tuition and any other required fees and charges must

be considered income. Under HOTMA, HUD has interpreted this limitation to apply when the student is the head of household or spouse, but not when the student resides with their parents [71 FR 18146].

For any funds from a year where HUD's appropriations continue to include this Section 8 student financial assistance limitation, if the student does not reside with their parents is the head of household, cohead, or spouse, and is under the age of 23 or without dependent children, then both the assistance received under Title IV HEA and other student financial assistance received by the student is included as income to the extent that it exceeds the total of tuition and any other required fees and charges.

In contrast, student financial assistance received by a Section 8 student who is the head of household, spouse, or cohead, and is over the age of 23 with dependent children, or a student who resides with their parents in a Section 8 unit, is governed by the HOTMA student rule, which is described below.

During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance for all Section 8 students defaults to the methodology for public housing.

HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)]
The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. The first category is any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) which must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
    - The Higher Education Tribal Grant
    - The Tribally Controlled Colleges or Universities Grant Program

The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education (not otherwise excluded by the Federally mandated income exclusions) [24 CFR 5.609(b)(9)(ii)]. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs, is included in income.

Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;
    - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the CDA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government ;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed; (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial

Assistance Resource Sheet; Notice PIH 2023-27]
There are two steps required as part of the calculation for Section 8 students. First, determine the student's relationship to the household, age, and whether they have dependent children. Second, calculate whether any excess student financial assistance should be included in the family's income.

If the student does not live with their parents and is the head of household, cohead, or spouse, and is 23 or younger or does not have dependent children, then Title IV HEA assistance is considered when determining the student's total financial aid amount. Subtract the total tuition plus required fees and charges from the total student financial assistance (Title IV HEA assistance and any other student financial assistance). If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no student financial assistance is included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.

If the student either lives with their parents or is over 23 with dependent children, then the calculation will use the HOTMA methodology for calculating financial assistance, which always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

CDA Policy

If the student does not live with their parents and is the head of household, cohead, or spouse, and is 23 or younger or does not have dependent children, then Title IV HEA assistance will be considered when determining the student's total financial assistance to be included in annual income. The CDA will use Notice PIH 2015-21 as a guide to determine the total amount of the student's tuition plus required fees and charges. The CDA will subtract the total tuition plus required fees and charges from the total student financial assistance. If the result is zero or exceeds the amount of total financial assistance from all sources, then no student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges will be included in annual income.

Example 1

- Tuition and required fees and charges: $20,000
- Title IV HEA assistance: $10,000
- Other student financial assistance: $15,000
- Total student financial assistance: $10,000 + $15,000 = $25,000
- Included income: $25,000 in financial assistance - $20,000 tuition and required fees = $5,000

If a student is head, spouse, or cohead, and is over 23 with dependent children or lives with their parents, the following applies:

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the CDA will exclude the full amount of the assistance received under Title IV from the family's annual income. The CDA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the CDA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The CDA will then subtract the total amount of the students' financial assistance from the students' actual costs. The CDA will include any amount of financial assistance in excess of the students' actual costs covered in the family's annual income.

Example 1

- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the CDA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial

assistance" would be excluded from income.

Example 2

- Actual covered costs: $25,000
- Title IV HEA assistance: $26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: $5,000
- Excluded income: The entire Title IV HEA assistance of $26,000
- Included income: All other financial assistance of $5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the CDA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs - $15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: $5,000
- $7,000 in remaining actual covered costs - $5,000 in other financial assistance
- Excluded income: $15,000 entire amount of the Title IV HEA Assistance + $5,000 in other financial assistance
- Included income: $0

Example 4

- Actual covered costs: $18,000
- Title IV HEA Assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $3,000 ($18,000 in actual covered costs - $15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: $5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by $2,000 ($3,000 in actual covered costs - $5,000 in other financial assistance).
- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly). Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b), and thus they are included in annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]
Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

CDA Policy
The CDA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.
When a delayed-start payment is received that is to be included and the family reports this during the period in which the CDA is processing an annual reexamination, the CDA will adjust the family's rent retroactively for the period the payment was intended to cover.
If the delayed-start payment is received outside of the time the CDA is processing an annual reexamination, then the CDA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the CDA will conduct an interim in accordance with CDA policies in Chapter 11. If not, the CDA will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]
Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits [Notice PIH 2018-24]
The CDA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, CDAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the CDA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

CDA Policy
Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the CDA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Alimony and Child Support

CDA Policy
The CDA will count court-awarded amounts for alimony and child support unless the CDA 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.

The CDA considers historical patterns to be the best indicator of future income from alimony and child support; therefore, the CDA will anticipate child support income based on the payments received in the previous 12 months unless documentation is provided by the family showing a permanent change in status (i.e., the death of the supporter or termination of the payment obligation).

6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly).

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;

- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, CDAs are prohibited from assigning monetary value to such non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

6-I.J. WELFARE ASSISTANCE

Overview

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

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

The CDA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR

5.615(b)]

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

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

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

6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements,

voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed the HUD-published threshold amount ($50,000 for 2024, and $51,600 for 2025), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the CDA or owner chooses not to conduct the examination.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b); FR Notice 1/31/2024]

Other exclusions contained in 24 CFR 5.609(b) and FR Notice 1/31/24 that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].

- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(i)(12)(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) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the CDA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.609 I(12)(ii)].

Incremental earnings and benefits to any family member resulting from participation in qualifying training programs funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local

government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

CDA Policy

The CDA 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 98-2, p. 3].

The CDA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the CDA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.
End of participation in a training program must be reported in accordance with the CDA's interim reporting requirements (see Chapter 11).

- 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(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude 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(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

  HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. It includes:

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

  (b) Benefits under Section 1780 of the Richard B. Russell School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.

  (c) Payments, including for supportive services and reimbursement of out-of-pocket

expenses, to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). The exclusion also applies to assets.

- Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).

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

(e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506).

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

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

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

(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Section 6).

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

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.

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

(m) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).

(n) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets.

(o) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spinal bifida (42 U.S.C. 12637(d)).

(p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.

(q) The value of any childcare provided or arranged (or any amount received as payment for

such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).

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

(s) 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) This exclusion also applies to assets.

(t) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327 (as amended)).

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

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

(w) Any amounts in an "individual development account" are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).

(x) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.

(y) Distributions from an ABLE account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.

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

(aa) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.

(ab) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the

settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

(ac) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

PART II: ASSETS

6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapters 3 and 12.

Income from assets is always anticipated, irrespective of the income examination type.

CDA Policy

The CDA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The CDA will 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) the CDA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the CDA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the CDA to show why the asset income determination

does not represent the family's anticipated asset income.

6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]

The CDA must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value [Notice PIH 2023-27].

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years.

Minimum Threshold

The *HCV Guidebook* permits the CDA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

CDA Policy

The CDA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

Separation or Divorce

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

CDA 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 has been 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. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Family Declaration

CDA Policy

Families must sign a declaration form at initial certification and each annual recertification 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. The CDA may verify the value of the assets disposed of if other information available to the CDA does not appear to agree with the information reported by the family.

6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]
All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds the HUD-published threshold amount (adjusted annually and published in HUD's current year Inflation-Adjusted Values tables). When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets.

- The threshold amount is $50,000 for 2024, and $51,600 for 2025.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care–related supplies Musical instruments used by the family Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as gems/precious metals, antique cars, artwork, etc.

CDA Policy

In determining the value of non-necessary, non-financial personal property, the CDA will use the family's estimate of the value. The CDA may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's current year Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025), checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family

assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The CDA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, are included as income.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025), financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is $0.

CDA Policy

The CDA will include interest or dividends earned by investment accounts 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.

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

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]
The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The CDA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the CDA chooses not to conduct the examination.

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.

CDA Policy
Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Jointly Owned Assets [Notice PIH 2023-27]
For assets owned jointly by the family and one or more individuals outside of the assisted family, the CDA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.
Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]
A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family are excluded from net family assets. The value of the trust continues to be excluded from net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Further, where an irrevocable trust is excluded from net family assets, the CDA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the property is held in the trust. The CDA must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for

2025), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

- A revocable trust that is not under the control of the family is excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]
Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

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. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]
All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of net family assets. When the subtraction results in a negative number, then net family assets are considered $0.

Asset Exclusions [24 CFR 5.603(b)]
The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].

- *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
- Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].

- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any "baby bond" account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

CDA 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 such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations,* p. 24].

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

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

The cash value of real property or other assets with negative equity would be considered $0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

Actual Income from Assets

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The CDA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

- The threshold amount is $50,000 for 2024, and $51,600 for 2025.

The CDA may not calculate or include any imputed income from assets when net family assets are less than or equal to the HUD-published threshold amount [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

Imputed Income from Assets

When net family assets exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, the CDA may not rely on self-certification. If actual returns can be calculated, the CDA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If

actual returns cannot be calculated, the CDA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). Imputed income is calculated by multiplying the net cash value of the asset (found by deducting reasonable costs that would be incurred in disposing of the asset from the market value) by the HUD-published passbook rate. If the CDA can compute actual income from some but not all assets, the CDA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of $0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

Overview

HUD regulations require CDAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the CDA to deduct other permissive deductions in accordance with CDA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:
> (a) *Mandatory deductions*
> (1) $480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);
> (2) $525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);
> (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
> (i) Unreimbursed health and medical care 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; and
> (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

CDA Policy

Generally, the CDA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the CDA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the CDA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The CDA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the CDA will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated,

the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations,* p. 30]. For annual reexaminations, the CDA will use information for the previous 12-month period.

6-III.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)]

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

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a health and medical care expense deduction, the unreimbursed health and medical care expenses of all family members are included. The CDA calculates health and medical care expenses based on the family's past expenses, but accounting for any anticipated changes in expenses during the certification period.

Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body". Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting CDAs to specifically align their policies to IRS Publication 502. CDAs must review each expense to determine whether it is eligible in accordance with HUD's definition.

While CDA policies may not specifically align with IRS Publication 502, HUD recommends CDAs use it as a standard for determining allowable expenses, and the CDA may list examples of allowable expenses in their policy provided they comply with HUD's definition at 24 CFR 5.603. The CDA may not define *health and medical care expenses* more narrowly than the regulation.

CDA Policy

The CDA will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstances will the CDA deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of *health and medical care expenses.*

Summary of Typical Allowable Health and Medical Care Expenses	
Services of medical professionals Surgery and medical procedures that are necessary, legal, and non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not non-prescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails) Medical insurance premiums or the cost of a health maintenance organization (HMO) Medicare Part B and Part D premiums	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses. The CDA will use the most current medical mileage rate listed in IRS Publication 502. The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) The costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.
Note: This chart provides a summary of eligible health and medical care expenses only. In all cases, the CDA will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD's definition.	

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

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

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the CDA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ten percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

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 [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

CDA Policy
The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the CDA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.
When the CDA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Auxiliary Apparatus [Notice PIH 2023-27]

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type or special equipment to assist a person who is deaf or hard of hearing.

Eligible Attendant Care [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The

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

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

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

CDA Policy
The CDA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the CDA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the CDA will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

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

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the CDA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.F. CHILDCARE EXPENSE DEDUCTION
HUD defines *childcare 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 (age 12 and younger) (including foster

children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

CDA Policy

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

In evaluating the family's request, the CDA 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

CDA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the CDA.

Furthering Education

CDA Policy

If the childcare expense being claimed is to enable a family member to further their 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, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

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

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

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

The CDA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

CDA Policy
When the childcare 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, the CDA generally will limit allowable childcare 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.

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

Allowable Childcare Activities

CDA 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 after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are

eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the CDA will prorate the costs and allow only that portion of the expenses that is attributable to childcare 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 childcare 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

Childcare 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 their education, and (2) the family certifies, and the childcare provider verifies that the expenses are not paid or reimbursed by any other source.

CDA Policy

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

To establish the reasonableness of childcare costs, the CDA will use the schedule of childcare costs from a qualified local entity that either subsidizes childcare costs or licenses childcare providers. Families may present, and the CDA will consider justification for costs that exceed typical costs in the area.

6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if

they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first, after the date on which the CDA implements phased-in relief.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.

When an eligible family's phased-in relief begins at an interim reexamination, the CDA must process another transaction (either an interim reexamination or non-interim transaction, as applicable) one year later to move the family to the next phase.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

The CDA must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another housing unit at the same CDA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the CDA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the CDA. When a family moves with continued assistance or ports to a new CDA, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The CDA must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

> CDA Policy
> The CDA will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or

- The family's financial hardship is a result of a change in circumstances (as defined in CDA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that CDAs develop policies defining what constitutes a hardship for purposes of this exemption.
The CDA must obtain third-party verification of the hardship or must document, in the file, the reason third-party verification was not available. CDAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

CDA Policy
To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The CDA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexamination in accordance with CDA policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits.

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
Other circumstances as determined by the CDA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the CDA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The CDA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

CDA Policy
The CDA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the CDA denies the hardship exemption request, the CDA notice will also state

that if the family does not agree with the CDA determination, the family may request a hearing.

If the family qualifies for an exemption, the CDA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the CDA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. CDAs are not limited to a maximum number of 90-day extensions.

CDAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. CDAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

CDA Policy
The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The CDA will extend relief for an additional 90-days if the family demonstrates to the CDA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The CDA will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the CDA may terminate the hardship exemption if the CDA determines that the family no longer qualifies for the exemption.

Childcare Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]
A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the CDA's satisfaction that the family is unable to pay their rent because of the loss of the childcare expense deduction, and that the childcare expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the CDA must recalculate the family's adjusted income and continue the childcare deduction.

The CDA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The CDA must obtain third-party verification of the hardship or must document, in the file, the reason third-party verification was not available. CDAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption

period.

CDA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The CDA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the childcare expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (childcare expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the childcare expense is still necessary even though the family member is no longer employed or furthering their education. The CDA will consider qualification under this criterion on a case-by-case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the CDA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The CDA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the CDA denies the request, the notice must specifically state the reason for the denial. The CDA must provide families with 30 days' notice of any increase in rent.

If the CDA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the CDA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

CDA Policy

The CDA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the CDA denies the hardship exemption request, the CDA notice will also state that if the family does not agree with the CDA determination, the family may request an informal hearing.

If the family qualifies for an exemption, the CDA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.
The CDA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in CDA policies. CDAs are not limited to a maximum number of 90-day extensions. CDAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

The CDA must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the CDA denies the request, the notice must specifically state the reason for the denial.

The CDA must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

CDA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The CDA will extend relief for an additional 90-days if the family demonstrates to the CDA's satisfaction that the family continues to qualify for the hardship exemption. The CDA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the CDA may terminate the hardship exemption if the CDA determines that the family no longer qualifies for the exemption.

6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(ii)]

The CDA may adopt additional permissive deductions from annual income if they establish a policy in the administrative plan. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance, and deductions must be designed to encourage self-sufficiency or other economic purpose. If the CDA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

A CDA that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A CDA will not be eligible for an increase in HCV

renewal funding for subsidy costs resulting from such deductions.

CDA Policy
The CDA has opted not to use permissive deductions.

PART IV: CALCULATING FAMILY SHARE AND CDA SUBSIDY

6-IV.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

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

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

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

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

Welfare Rent [24 CFR 5.628]

CDA Policy
Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

CDA Policy
The minimum rent for this locality is $50.

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

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the CDA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the CDA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. (For a discussion of the application of payment standards, see section 6-IV.C.)

CDA Subsidy [24 CFR 982.505(b)]

The CDA will pay a monthly housing assistance payment (HAP) for a family that is equal to the

lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-IV.C.)

Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]
When the CDA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the CDA to pay the reimbursement to the family or directly to the utility provider.

CDA Policy
The CDA will make utility reimbursements to the family.

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

CDA Policy
The CDA will issue all utility reimbursements monthly.

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

CDA Policy
The financial hardship rules described below do not apply in this jurisdiction because the CDA has established a minimum rent of $0.

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

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the CDA 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.

CDA 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.

CDA 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.

CDA 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).

(5) The family has experienced other circumstances determined by the CDA.

CDA Policy
The CDA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the CDA must suspend the minimum rent requirement beginning the first of the month following the family's request.
The CDA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

CDA Policy
The CDA 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 CDA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income	$0 30% of monthly adjusted income
$15 10% of monthly gross income	$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
$50 Minimum rent	$50 Minimum rent

Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

CDA 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.

The CDA will make the determination of hardship within 30 calendar days.

No Financial Hardship
If the CDA determines there is no financial hardship, the CDA will reinstate the minimum rent and require the family to repay the amounts suspended.

CDA Policy
The CDA will require the family to repay the suspended amount within 30 calendar days of the CDA's notice that a hardship exemption has not been granted.

Temporary Hardship
If the CDA determines that a qualifying financial hardship is temporary, the CDA 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 CDA the amounts suspended. HUD requires the CDA to offer a reasonable repayment agreement, on terms and conditions established by the CDA. The CDA also may determine that circumstances have changed and the hardship is now a long-term hardship.

CDA Policy
The CDA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship
If the CDA determines that the financial hardship is long-term, the CDA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

CDA 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 new sources of income are received that are 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.

6-IV.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505(c) and Notice PIH 2024-34]

Overview

The CDA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the CDA's payment standards. The establishment and revision of the CDA'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 CDA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family [24 CFR 982.505(c)(1)].

If the CDA has established an exception payment standard for a designated part of a FMR area in accordance with 24 CFR 982.503 and a family's unit is located in the designated area, the CDA must use the appropriate payment standard for the exception area [24 CFR 982.505(c)(2)].

The CDA 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 CDA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

When the CDA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations. Regulations governing increases and decreases in the payment standard have changed, with a required compliance date of December 3, 2024.

Decreases [24 CFR 982.505(c)(3) and Notice PIH 2024-34]

For new HAP contracts, the CDA applies the payment standard in effect at the time of HAP contract execution.

The CDA must administer decreases in the payment standard amount for the family in accordance with the CDA policy as described in the administrative plan and apply the policy consistently to all families.

If the CDA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the CDA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect. The CDA must administer decreases in the payment standard amount for the family in accordance with the CDA policy as described in the administrative plan.

Changes effective 12/2/24 and earlier: If the CDA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount.

Changes effective 12/3/24 and later: If the CDA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than two years following the effective date of the decrease in the payment standard and only with proper written notice to the family in accordance with 24 CFR 982.505(c)(3)(iii).

At that point, the CDA may either reduce the payment standard to the current amount in effect on the CDA's payment standard schedule or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The CDA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the CDA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. In the written notice, the CDA must state the new payment standard amount, explain that the family's new payment standard amount will be the greater of the amount listed in the current written notice or the new amount (if any) on the CDA's payment standard schedule at the end of the 12-month period, and make clear where the family will find the CDA's payment standard schedule. The CDA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

CDA Policy

If a CDA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the CDA will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

The CDA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

Increases **[24 CFR 982.505(c)(4) and Notice PIH 2024-34]**

For new HAP contracts, the CDA applies the payment standard in effect at the time of HAP contract execution.

Changes effective 12/2/24 and earlier: If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard. Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes effective 12/3/24 and later: If the payment standard is increased during the term of the HAP contract, the increased payment standard will be applied no later than the earliest of:

- The effective date of an increase in the gross rent that would result in an increase in the family share;
- The family's first regular or interim reexamination; or
- One year following the effective date of the increase in the payment standard amount.

The CDA may adopt a policy to apply a payment standard increase at any time earlier than the date calculated above as long as the policy is included in the administrative plan and applied consistently to all families [24 CFR 982.505(c)(5)].

CDA Policy
The CDA will not adopt payment standard increases earlier than the date required by the regulations.

Changes in Family Unit Size (Voucher Size) **[24 CFR 982.505(c)(6) and Notice PIH 2024-34]**
Changes effective 12/2/24 and earlier: 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.

Changes effective 12/3/24 and later: 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 may be used to determine the payment standard immediately but no later than the family's first regular reexamination following the change in family unit size.

CDA Policy
If the family unit size (voucher size) changes during the term of a HAP contract, the new family unit size will be used to determine the payment standard at the family's first regular reexamination following the change in family unit size.

Moves
If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Reasonable Accommodation [24 CFR 982.503(d)(5)]

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the CDA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR without HUD approval or prior notification to HUD. A CDA may establish a payment standard greater than 120 percent of the applicable FMR as a reasonable accommodation in accordance with 24 CFR part 8, after requesting and receiving HUD approval. See Chapter 16 for more information.

6-IV.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

The CDA-established utility allowance schedule is used in determining family share and CDA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using CDA subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the CDA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Flat Fees [24 CFR 982.517(b)(2)(iii)]

The CDA may base its utility allowance payments on actual flat fees charged by an owner for utilities that are billed directly by the owner, but only if the flat fee charged by the owner is no greater than the CDA's applicable utility allowance for the utilities covered by the fee. If the owner charges a flat fee for some but not all utilities, the CDA must pay a separate allowance for any tenant-paid utilities not covered in the flat fee.

CDA Policy

The CDA will not base utility allowance payments on flat fees charged by the owner.

PBV Developments [24 CFR 982.517(b)(2)(iv)]

If a tenant-based voucher holder resides in a project with project-based voucher (PBV) units and the PBV units use a site-specific utility allowance in accordance with PBV regulations, the CDA must use the project-specific utility allowance schedule.

Reasonable Accommodation and Individual Relief

On request from a family that includes a person with disabilities, the CDA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations.)

Further, the CDA may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as the CDA deems appropriate. The family must request the higher allowance and provide the CDA an explanation of the need for individual relief and an explanation about the amount of additional allowance required [see HCV GB, p. 18-8].

The CDA should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company.

CDA Policy
The family must request the higher allowance and provide the CDA with information about the amount of additional allowance required.
The CDA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the CDA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or CDA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet. The CDA will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

At its discretion, the CDA may reevaluate the need for the increased utility allowance at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or CDA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

Utility Allowance Revisions

At reexamination, the CDA must use the current utility allowance schedule [HCV GB, p. 18-8].

CDA 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-IV.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 CDA must prorate the assistance provided to a mixed family. The CDA 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 CDA subsidy for a family is calculated at $500 and two of four family members are ineligible, the CDA subsidy would be reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

24 CFR 5.609

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

(b)Annual income does not include the following:

(1) Any imputed return on an asset when net family assets are less than or equal to the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

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

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)€ of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

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

(2) Expressly to assist a student with the costs of higher education; or

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

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

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

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) 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);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the CDA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with 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 unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) 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.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) 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.

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

(18) 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.

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

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

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

(22) Amounts that HUD is required by Federal statute to exclude 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 paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) 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.

EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, CDAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed the HUD-published threshold amount (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) 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 trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the CDA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the CDA, the welfare agency will inform the CDA 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 CDA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The CDA 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 CDA'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 CDA 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 CDA 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 CDA decision.*

(1) Public housing. If a public housing tenant claims that the CDA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the CDA denies the family's request to modify such amount, the CDA shall give the tenant written notice of such denial, with a brief explanation of the basis for the CDA determination of the amount of imputed welfare income. The CDA notice shall also state that if the tenant does not agree with the CDA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the CDA 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 CDA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the CDA 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 CDA denies the family's request to modify such amount, the CDA shall give the family written notice of such denial, with a brief explanation of the basis for the CDA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the CDA determination, the

family may request an informal hearing on the determination under the CDA hearing procedure.

(e) *CDA relation with welfare agency.*

(1) The CDA must ask welfare agencies to inform the CDA 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 CDA 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 CDA 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 CDA. However, the CDA 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 CDA shall be entitled to rely on the welfare agency notice to the CDA of the welfare agency's determination of a specified welfare benefits

CHAPTER 7.A.
VERIFICATION
[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

The CDA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The CDA must not pass on the cost of verification to the family.

The CDA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary CDA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the CDA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, and Notice PIH 2023-27]

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

Consent Forms

The family must supply any information that the CDA or HUD determines is necessary to the administration of the program and must consent to CDA verification of that information [24 CFR 982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While CDA must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The CDA must also develop its own release forms to cover all other necessary information.

Form HUD-9886 [24 CFR 5.203(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult applicants and participants sign form HUD-9886 and Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the CDA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not

be submitted to the CDA except under the following circumstances:

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

The CDA has the discretion to establish policies around when family members must sign consent forms when they turn 18. CDAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

CDA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual.

The CDA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the CDA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

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

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

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 CDA must deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with CDA procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the CDA to access financial records from financial institutions, unless the CDA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. The CDA may not process interim or annual reexaminations of income without the family's executed consent forms.

CDA Policy

The CDA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with CDA policy.

In order for a family to revoke their consent, the family must provide written notice to the CDA. Within 10 business days of the date the family provides written notice, the CDA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will

result in denial or termination of assistance, as applicable. At the same time, the CDA will notify their local HUD office.

7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]

The CDA may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. CDAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the CDA adopts a policy to accept this type of verification, the CDA must establish in policy when they will accept Safe Harbor income determinations and from which programs. The CDA must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

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

If the CDA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, the CDA will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the CDA:

- Income determination effective date;
- Program administrator's signature date;

- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that the CDA is permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the CDA. The CDA is not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the CDA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the CDA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the CDA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the CDA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. CDAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

CDA Policy

When available and applicable, the CDA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The CDA will still require third-party verification of all deductions such as the health and medical care expense or childcare expense deductions. Further, if the family is eligible for and claims the disability assistance expense or childcare expense deductions, where applicable, the CDA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

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

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

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the CDA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

Be dated within 12 months of the dates listed above;

State the family size

Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

Must state the amount of the family's annual income.

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

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

When the CDA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the CDA. Depending on when the change occurred, the change may or may not impact the CDA's calculation of the family's total annual income. Changes that occur between the time the CDA receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the CDA will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 11. In this case, the CDA will use third-party verification to verify the change.

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits the CDA to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the CDA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The CDA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the CDA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the CDA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but the CDA may choose to adjust sources of non-fixed income based on third-party verification. The CDA has the discretion to either adjust the non-fixed income or carry over the

calculation of non-fixed income from the first year to years two and three.
When less than 90 percent of a family's unadjusted income consists of fixed income, the CDA may apply a COLA to each of the family's sources of fixed income. The CDA must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

CDA Policy

When the CDA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then the CDA will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

The CDA will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

The CDA will document in the file how the determination that a source of income was fixed was made.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, the CDA will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

The CDA will apply a COLA to each of the family's sources of fixed income.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the CDA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed $50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During the intake process and at least once every three years thereafter.

7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the CDA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the CDA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds $50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the CDA to use the most reliable form of verification that is available and to document the reasons when the CDA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The CDA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.
In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "family-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

File Documentation

The CDA 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 CDA has followed all 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.

7-I.E LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the CDA's use of the verification tools available from

independent sources that maintain computerized information about earnings and benefits for a number of individuals. The CDA may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the CDA.

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 CDA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the CDA.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

The CDA must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages., unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

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

EIV Income and IVT Reports

The CDA is required to obtain an EIV Income and IVT report for each family any time the CDA conducts an annual reexamination. However, CDAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the CDA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the CDA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

CDA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the CDA will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. The CDA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

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

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the CDA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

THE CDA must review this information at annual reexamination except when the CDA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

If the CDA does not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the CDAA requires an interim for increases in earned income after an interim decrease, then the CDA must review the report quarterly after the family's interim decrease.

CDAA Policy

In accordance with CDA policies in Chapter 11, the CDA does not process interim reexaminations for families who have increases in earned income. Except for instances in which the CDA uses Safe Harbor income determinations to determine a family's annual income, the CDA will only review the New Hires Report at annual reexamination.

No Income Reported by HHS or SSA Report

This report is a tool for the CDA to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. CDAs obtain written, third-party verification of any income reported by the participant. The CDA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

CDA Policy

The CDA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

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

When the CDA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

EIV Identity Verification Report

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth.

The CDA is required to use EIV's *Identity Verification Report* monthly to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a participant fails, a message will be displayed within the EIV system, and no income information will be displayed.

CDA Policy

The CDA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* monthly.

The CDA will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the CDA determines that discrepancies exist as a result of CDA errors such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The CDA is required to review the report at least quarterly.

CDA Policy

The CDA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, the CDA must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The CDA must notify the owner in writing of the deceased head of household.

The CDA may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

CDA Policy

The CDA will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

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

Other EIV Reports [Notice PIH 2023-27]

The CDA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

HUD encourages the CDA to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

CDA Policy

The CDA will utilize any available UIV systems.

7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV +_Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the CDA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

CDA Policy

At annual reexamination, if the CDA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the CDA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The CDA will use an average of the last two quarters of income listed in EIV to determine income from employment. The CDA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the CDA will use written third-party verification from the source as outlined below.

The CDA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the CDA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

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

The CDA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the CDA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the CDA uses written third-party verification.

When verification of assets is required, the CDA is required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

CDA Policy

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

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The CDA will not use this method if the CDA is able to use an income determination from a means-tested federal assistance program or if the CDA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the CDA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The CDA 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. If the CDA determines that third-party documents provided by the family are not acceptable, the CDA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the CDA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the CDA will require the family to provide the two most current, consecutive pay stubs. At the CDA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the CDA may request

additional paystubs or a payroll record.

7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023 -27]

This type of verification is a form developed by the CDA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." The CDA sends a CDA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The CDA may use this method when higher forms are unavailable or are rejected by the CDA or when the family is unable to provide acceptable verification. The CDA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

CDA Policy

Typically, the CDA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the CDA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, the CDA contacts sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

The CDA must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The CDA may skip this level of verification if they have attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

CDA Policy

In general, the CDA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the CDA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the CDA chooses to obtain oral third-party verification, the CDA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

CDA Policy

If the family cannot provide original documents, the CDA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

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 the CDA to accept self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

CDA Policy

The CDA will accept self-certification from a family as verification of assets disposed of for less than fair market value.

Value of Assets and Asset Income [24 CFR 982.516(a)]

For families with net assets totaling $5,000 or less, the CDA may accept the family's declaration of asset value and anticipated asset income. However, the CDA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

CDA Policy

The CDA will use third-party documentation for the value of assets and asset income as part of the intake process, whenever a family member is added, and at least annually thereafter.

If the third-party documentation shows unidentifiable, or unreported deposits, the CDA may request the most recent twelve-month account history to determine if the amount should be included as annual income. This account history is imperative during the intake process where deposit income could impact program income eligibility. An account summary is not sufficient verification of an asset account; a full account statement is required.

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the CDA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $50,000 or less and the CDA has adopted a policy to accept self-certification
- The family declares that they do not have any present ownership in any real property
- The family states that they have non-recurring income that will not be repeated in the coming year and/or

- The CDA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the CDA was required to obtain third-party verification but instead on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

CDA 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 they have provided to the CDA.

The CDA 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 the CDA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

Part II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

CDA Policy

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

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers	Certificate of birth
Current U.S. passport	Adoption papers
U.S. military discharge (DD 214)	Custody agreement
	Health and Human Services ID

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

If none of these documents can be provided and at the CDA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the CDA and must be signed by the family member whose information or status is being verified.

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

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27]

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

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The CDA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual
- While the CDA must attempt to gather third-party verification of SSNs prior to admission as listed above, the CDA may also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the CDA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the CDA must document why the other SSN documentation was not available.

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

  CDA Policy
  The CDA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The CDA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

CDA Policy

The CDA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the CDA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program.

The CDA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

CDA Policy

The CDA will grant one additional 90-day extension if needed for reasons 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 the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the CDA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the CDA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

CDA Policy

The CDA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 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 or recertification, in addition to the documentation

required to verify it. The CDA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 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 CDA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period, the CDA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

CDA Policy

The CDA will grant one additional 90-day extension if needed for reasons 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.

Social security numbers must be verified only once during continuously assisted occupancy.

CDA Policy

The CDA will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers.

Scanning the original documentation submitted, returning it to the individual, and retaining a copy in the tenant's electronic file.

Once the individual's verification status is classified as "verified," the CDA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

CDA Policy

The CDA will retain the document image in the electronic tenant file.

7-II.C. DOCUMENTATION OF AGE

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

CDA Policy

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

Age must be verified only once during continuously assisted occupancy.

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.

CDA 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. If the CDA has reasonable doubts about familial relationships, the CDA will request further documentation or information.

Marriage

CDA Policy

Certification by the head of household is normally sufficient verification. If the CDA has reasonable doubts about a marital relationship, the CDA will require the family to document the marriage.

Separation or Divorce

CDA Policy

Certification by the head of household is normally sufficient verification. If the CDA has reasonable doubts about separation or divorce, the CDA will require the family to provide documentation of the divorce or separation.

Absence of Adult Member

CDA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must submit this information on a change report form. The CDA may request that the family provide evidence to support the fact 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), if the CDA so requests.

Foster Children and Foster Adults

CDA Policy

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

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

CDA Policy

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

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family reports childcare expenses to enable a family member to further their 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.

CDA Policy

In accordance with the verification hierarchy described in Section 7-I. B, the CDA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).

The student is at least 24 years old.

The student is a veteran, as defined in Section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in Section 3-II.E.

The student is a person with disabilities, as defined in Section 3-II. E, and was receiving assistance prior to November 30, 2005.

If the CDA cannot verify at least one of these exemption criteria, the CDA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the CDA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.M) or the student's independence from their parents (see below).

Independent Student

CDA Policy

The CDA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II. E)

Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II. E)

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the CDA determines that the student is a *vulnerable youth* (see section 3-II. E)

7-II.F. DOCUMENTATION OF DISABILITY

The CDA must verify the existence of a disability to allow certain income disallowances and deductions from income. The CDA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The CDA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the CDA receives a verification document that provides such information, the CDA will not place this information in the tenant file. Under no circumstances will the CDA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether they are persons with disabilities [VG, p. 24]:

Inquiry into an applicant's ability to meet the requirements of ownership or tenancy.

Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability.

Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability.

Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance.

Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

CDA Policy

For family members claiming disability who receive disability benefits from the SSA, the CDA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the CDA will request a current (dated within the appropriate benefit year) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the CDA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter, they will be required to provide it to the CDA.

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.

CDA 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. A 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 people. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and CDA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The CDA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

CDA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the CDA 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 has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

CDA Verification [HCV GB, pp. 5-3 and 5-7]

- For family members aged 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.
- For family members under the age of 62 who claim to be eligible immigrants, the CDA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).
- The CDA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The CDA must verify any preferences claimed by an applicant that determined placement on the waiting list.

CDA Policy

The CDA will offer a preference to any family that has been terminated or is at imminent risk of being terminated from the following programs due to insufficient funding:

- CDA administered Housing Choice Voucher
- Dakota County Supportive Housing Unit administered Continuum of Care Program (limited to 24 families per calendar year)

The CDA will verify this preference using the CDA records.

The CDA will offer a preference to any family residing in Dakota County that has been

involuntarily displaced due to:

- fire, flood, or tornado
- Any disaster that is recognized pursuant to Federal Disaster relief laws
- Local government action related to redevelopment

Applicants claiming a preference in this category must demonstrate that the displacement is imminent or that it has occurred within 30 days of the preference claim. In order to qualify for a preference, the CDA must also determine that a reasonable housing alternative at a comparable cost to the housing from which the family is being or has been displaced is not readily available to the applicant.

The CDA will verify this preference using government correspondence documenting the displacement or Federal disaster relief.

The CDA will offer a preference to any family required to move from a CDA public housing unit without placement to another public housing unit. This preference is not available if the family is evicted by court action from a CDA public housing unit. The CDA will verify this preference using the CDA's Property Management records.

The CDA will offer a preference to any family who is a Dakota County resident or has community ties. The CDA will verify this preference using third party documentation from property owner or property records to document residency; employers to document employment location; and educational institutions to document full-time student's attendance location.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6 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 income reported by the family must be verified. This part provides CDA policies that supplement the general verification procedures specified in Part I of this chapter.

CDA Policy

The following policies do not apply when the CDA uses a Safe Harbor income determination from a mean-tested federal assistance program.

7-III.A. EARNED INCOME

Tips

CDA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, people who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

CDA Policy

For wages other than tips, if the CDA knows the start date of employment, the year-to-date earnings will be used to calculate the projected annual income. The family must provide one pay stub, dated within 30 days of the date it is provided to the CDA.

If the CDA determines that it cannot accurately calculate the projected annual income, the CDA

may request that the family provide originals of the three most current, consecutive pay stubs (i.e., employment wages that are sporadic, seasonal, or status change from part time-full time etc.)

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The CDA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

CDA Policy

Business owners and self-employed people will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

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

For self-employed individuals who claim they do not have to file tax returns, The CDA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the CDA will provide a format for the individual to declare their income and expenses. The CDA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

If taxes have not been filed, the CDA will provide statement forms to record business or self-employment revenue and expenses projected for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify its accuracy.

If a family member has been self-employed less than three (3) months, the CDA 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, the CDA 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

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

Social Security/SSI Benefits [Notice PIH 2023-27]

CDA For applicants, since EIV does not contain SS or SSI benefit information, the CDA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the appropriate benefit year) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the CDA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The CDA must obtain the original benefit letter from the applicant, make a photocopy of the

document for the file, and return the original to the family.

For participants, the CDA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the CDA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. CDAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The CDA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the CDA must request a current SSA benefit verification letter (dated within the appropriate benefit year) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the CDA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The CDA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

CDA Policy

The CDA will use the most recent 12-month payment history as the best indicator for projecting annual income of alimony or child support. The CDA will use verification obtained in the following order of priority:

- Tenant provided printout from Department of Human Services Child Support Online system. The CDA will request a record of payments for the past 12 months, however if the system does not provide 12 months, the CDA will use the average of the time period provided.
- Written third-party verification form from the county child support enforcement agency. The CDA will request a record of payments for the past 12months and request that the entity disclose any known information about the likelihood of future payments.
- Written third-party verification form from the person paying the support.
- Family's self-certification of amount received.

Note: Families are not required to undertake independent enforcement action.

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e. the 1-months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. The CDA may accept a self-certification from the family stating that the income will not be repeated in the coming year.

CDHA Policy

The CDA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the CDA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables ($50,000 for 2024 and $51,600 for 2025), the CDA may, but is not required to, accept the family's self-certification that the family's assets do not exceed the HUD-published threshold without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed the HUD-published threshold), may generate asset income. The CDA must clarify during the self-certification process which assets are included/excluded from net family assets.

If the CDA chooses to accept self-certification, the CDA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

If the CDA chooses not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over the HUD-published threshold, the CDA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed the HUD-published threshold.

When verification of assets is required, the CDA is required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

CDA Policy

For families with net assets less than or equal to the HUD-published threshold listed in the current year's Inflation-Adjusted tables, the CDA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show the total amount of income expected from all assets. All family members 18 years of age and older must sign the

family's declaration. The CDA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the CDA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the CDA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The CDA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 12. At admission and reexam, the CDA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the CDA must obtain third-party verification.

CDA Policy

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

If the family declares they have a present ownership in real property, the CDA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the CDA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. ASSETS AND INCOME FROM ASSETS

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits the CDA to accept a self-certification from a family as verificaitn of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The CDA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

CDA Policy

The CDA will accept a self-certification from a family as a verification of assets disposed of for less than fair market value.

The CDA will verify the value of assets disposed of only if:

The CDA does not already have a reasonable estimation of its value from previously collected information, or the amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the CDA verified this amount. Now the person reports that she has given this $10,000 to her son. The CDA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the CDA will verify the value of this asset.

7-III.H. NET INCOME FROM RENTAL PROPERTY

CDA 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, the CDA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

The CDA is not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the CDA does not accept self-certification of assets. The CDA must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $50,000.

7-III.J. RETIREMENT ACCOUNTS

CDA Policy

The CDA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments including verification of the amount contributed by the household.

7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the CDA is **not** required to document why third-party verification is not available or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

The CDA may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, the CDA has the option of requiring additional verification.

For partially excluded income, the CDA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student.

CDA Policy

The CDA will accept a family's self-certification as verification of fully excluded income. The CDA may request additional documentation, if necessary, to document the income source.

The CDA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.L. ZERO INCOME STATUS REVIEWS [Notice PIH 2023-27]

A *zero income review* is an assessment, sometimes periodic, performed by the CDA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for the CDA to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require CDAs to conduct periodic zero income reviews. In calculating annual income, the CDA must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)]. If the CDA performs zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

CDA Policy

The CDA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, et.c are not being received by families claiming to have zero annual income.

The CDA will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the CDA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The CDA will only conduct interims in accordance with CDA policy in Chapter 11.

7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9) as updated for HOTMA]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

CDA Policy

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

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

If the CDA is unable to obtain third-party written verification of the requested information, the CDA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.N. PARENTAL INCOME FOR 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 their parents or a *vulnerable* youth in accordance with CDA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

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

CDA Policy

If the CDA is required to determine the income eligibility of a student's parents, the CDA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II. E). The CDA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the CDA. The required information must be submitted (postmarked) within 10 business days of the date of the CDA's request or within any extended timeframe approved by the CDA.

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

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The CDA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child.
- Any person aged 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 for a discussion of the deduction. The CDA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. HEATLH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The CDA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The CDA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the CDA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

CDA Policy

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- When income is projected at new admission or interim, the CDA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms if the family is unable to provide acceptable documentation.
- When income is projected at new admission or interim, if third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the CDA will redact all personally identifiable information.

If the CDA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the CDA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the CDA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will CDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the CDA must verify that:

- The household is eligible for the deduction.
    - For medical expenses paid with a charge card, the CDA will require verification that the amount paid, throughout the past twelve months, covers the cost of the medical expense and does not include interest, or other charges.
- The costs to be deducted are qualified health and medical care 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 health and medical care expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The CDA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense's deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the CDA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense's deduction, the costs must not be reimbursed by another source.

CDA Policy

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

Expenses Incurred in Past Years

CDA Policy

At new admission and intern reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, the CDA will verify:

- The anticipated repayment schedule.
- The amounts paid in the past, and

- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The CDA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The CDA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the CDA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

Attendant Care

CDA Policy

Expenses for attendant care will be verified through:

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

Before placing bills and documentation in the tenant file, the CDA will redact all personally identifiable information.

If the CDA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the CDA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to disposed of, the CDA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will CDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

CDA Policy

Expenses for auxiliary apparatus will be verified through:

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

- If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the CDA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II. F above).
- The expense permits a family member, or members, to work (as described in Chapter 6).
- The expense is not reimbursed from another source (as described in Chapter 6).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The CDA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The CDA must verify that the expenses claimed enable a family member, or members, (including the person with disabilities) to work.

CDA Policy

The CDA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

CDA 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. CHILDCARE EXPENSES

Policies related to childcare expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the CDA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for childcare deduction, the costs must be incurred for the care of a child under the age of 13. The CDA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

CDA Policy

The childcare provider will be asked to certify that, to the best of the provider's knowledge, the childcare expenses are not paid or reimbursed to the family from any source.

If the childcare provider is not a licensed facility, the family will be required to provide copies of checks or money orders documenting 2 months of payments as proof of payment or tax documents of unreimbursed childcare expenses.

Pursuing an Eligible Activity

The CDA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are pursuing those activities.

CDA Policy

Information to be Gathered

The CDA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (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

Whenever possible the CDA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the CDA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the CDA any reports provided to the other agency.

In the event third-party verification is not available, the CDA will provide the family with a form on which the family member must record job search efforts. The CDA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The CDA will request third-party documentation to verify that the person permitted to further their education by childcare 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

The CDA will request third-party verification of the work schedule of the person who is permitted to work by childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. This documentation may be provided by the family.

Allowable Type of Childcare

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

CDA Policy

The CDA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6.

The CDA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child.

The CDA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

CDA Policy

The actual costs the family incurs will be compared with the CDA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

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

EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]

<table>
<tr><td colspan="2">

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the CDA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

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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.

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All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

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<tr><td>

- 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"

</td><td>

- 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).

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- Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".

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Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

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- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

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Chapter 7.B.

VERIFICATION UNDER HOTMA 102/104

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

INTRODUCTION

This chapter is applicable upon the CDA's HOTMA 102/104 compliance date. Prior to this date, the CDA will follow policies as outlined in Chapter 7.A. of the Administrative Plan.

The CDA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The CDA must not pass on the cost of verification to the family.

The CDA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary CDA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the CDA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516; 24 CFR 982.551; 24 CFR 5.230; and Notice PIH 2023-27]

Consent Forms

The family must supply any information that the CDA or HUD determines is necessary to the administration of the program and must consent to CDA verification of that information [24 CFR 982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While the CDA must use form HUD-9886-A, this form does not release all the information necessary to the administration of the program. The CDA must also develop its own release forms to cover all other necessary information.

Form HUD-9886-A [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5); and Notice PIH 2023-27]

All adult applicants and participants sign form HUD-9886-A, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886-A at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886-A be signed only once. On or after January 1, 2024 (regardless of the CDA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the CDA except under the following circumstances:

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

The CDA has the discretion to establish policies around when family members must sign consent forms when they turn 18. CDAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

CDA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886-A within 10 business days of turning 18 years of age.

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

The CDA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the CDA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

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

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 CDA must deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with CDA procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the CDA to access financial records from financial institutions, unless the CDA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. CDAs may not process interim or annual reexaminations of income without the family's executed consent forms.

CDA Policy
The CDA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with CDA policy.

In order for a family to revoke their consent, the family must provide written notice to the CDA.

Within 10 business days of the date the family provides written notice, the CDA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will

result in denial or termination of assistance, as applicable. At the same time, the CDA will notify their local HUD office.

7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]

CDAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. CDAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the CDA adopts a policy to accept this type of verification, the CDA must establish in policy when they will accept Safe Harbor income determinations and from which programs. CDAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

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

If the CDA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, CDAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the CDA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;

- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that CDAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the CDA. CDAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the CDA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the CDA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the CDA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the CDA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and childcare expenses deducted from a family's annual income, except for when a family is approved for a childcare expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. CDAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

CDA Policy

When available and applicable, the CDA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The CDA will still require third-party verification of all deductions such as the health and medical care expense or childcare expense deductions. Further, if the family is eligible for and claims the disability assistance expense or childcare expense deductions, where applicable, the CDA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

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

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

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the CDA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

Be dated within 12 months of the dates listed above;
State the family size

Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and
Must state the amount of the family's annual income.

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

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

When the CDA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the CDA. Depending on when the change occurred, the change may or may not impact the CDA's calculation of the family's total annual income. Changes that occur between the time the CDA receives the Safe Harbor documentation and the effective date of the family's annual reexamination will not be considered. If the family has a change in income that occurs after the annual reexamination effective date, the CDA will conduct an interim reexamination if the change meets the requirements for performing an interim reexamination as outlined in Chapter 11. In this case, the CDA will use third-party verification to verify the change.

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits CDAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the CDA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The CDA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the CDA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources. Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the CDA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but CDAs may choose to adjust sources of non-fixed income based on third-party verification. CDAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, CDAs may apply a COLA to each of the family's sources of fixed income. CDAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

CDA Policy

When the CDA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then CDA will use a streamlined income determinations where applicable.

Regardless of the percentage of a family's unadjusted income from fixed income sources:

The CDA will streamline the annual reexamination process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.

The CDA will document in the file how the determination that a source of income was fixed was made.

If the family's sources of fixed income have changed from the previous year, the CDA will obtain third-party verification of any new sources of fixed income.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the CDA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed the HUD-published threshold ($50,000 for 2024, and $51,600 for 2025);

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During the intake process and at least once every three years thereafter.

7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the CDA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the CDA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds the HUD-published threshold, as listed in HUD's Inflation-Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods

to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the CDA to use the most reliable form of verification that is available and to document the reasons when the CDA uses a lesser form of verification.

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

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The CDA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.
In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "family-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

File Documentation
The CDA 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 CDA 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.

7-I.E. LEVEL 5 AND 6 VERIFICATIONS: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the CDA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. CDAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the CDA.

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 CDA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the CDA.

HUD's Enterprise Income Verification (EIV) System (Mandatory)
CDAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.
The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

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

EIV Income Report
CDAs are required to obtain an EIV Income Report for each family any time the CDA conducts an annual reexamination. However, CDAs are not required to use the EIV Income Report:

- At annual reexamination if the CDA used Safe Harbor verification from another means-tested federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income Report is also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the CDA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

CDA Policy
Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the CDA will obtain an EIV Income Report for all annual reexaminations for all families on a monthly basis. The CDA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

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

Income reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the CDA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

New Hires Report [Notice PIH 2023-27]
The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

The CDA must review this information at annual reexamination except when the CDA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

If the CDA does not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the CDA requires an interim for increases in earned income after an interim decrease, then the CDA must review the report quarterly after the family's interim decrease.

CDA Policy
In accordance with CDA policies in Chapter 11, the CDA does process interim reexaminations for families who have increases in earned income.

No Income Reported by HHS or SSA Report
This report is a tool for the CDA to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. The CDA must obtain written third-party verification of any income reported by the participant. The CDA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

CDA Policy

The CDA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

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

When the CDA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

EIV Identity Verification Report
The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth.

The CDA are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].
When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

CDA Policy
The CDA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The CDA will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the CDA determines that discrepancies exist as a result of CDA errors such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The CDA is required to review the report at least quarterly.

CDA Policy

The CDA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, CDAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The CDA must notify the owner in writing of the deceased head of household.

The CDA may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

CDA Policy

The CDA will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

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

Other EIV Reports [Notice PIH 2023-27]

The CDA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

In addition to mandatory use of the EIV system, HUD encourages CDAs to utilize other upfront verification sources.

CDA Policy

The CDA does not use any other UIV systems that require notification to applicants and participants.

7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the CDA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

CDA Policy

At annual reexamination, if the CDA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the CDA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The CDA will use an average of the last two quarters of income listed in EIV to determine income from employment. The CDA will provide the family with information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with using only the last two quarters of income listed in EIV, because of the seasonal or otherwise fluctuating nature of a particular family member's employment, the CDA will permit the family to sign a self-certification stating that the average of all four quarters of income listed in EIV is accurate and representative of current annual income and use that amount for calculating annual income. If the family disagrees and contends that the amount listed in EIV is not reflective of current income, or if less than two quarters are available in EIV, the CDA will use written third-party verification from the source as outlined below.

The CDA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as "tenant-provided verification." In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the CDA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. The CDA may use the verification obtained during an interim reexamination for an annual reexamination if there have been no other changes to annual income since the interim reexamination. Documents may be supplied by the family or received from a third-party source.

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

The CDA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the CDA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the CDA uses written third-party verification.

When verification of assets is required, CDAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

CDA Policy

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

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The CDA will not use this method if the CDA is able to use an income determination from a means-tested federal assistance program or if the CDA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the CDA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The CDA may reject documentation provided by the family if the document is not original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the CDA determines that third-party documents provided by the family are not acceptable, the CDA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the CDA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the CDA will require the family to provide the two most current, consecutive pay stubs. At the CDA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the CDA may request additional paystubs or a payroll record.

7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023 -27]

This type of verification is a form developed by the CDA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." CDAs send a CDA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The CDA may use this method when higher forms are unavailable or are rejected by the CDA or when the family is unable to provide acceptable verification. The CDA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

CDA Policy

Typically, the CDA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the CDA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, CDAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

The CDA must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The CDA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

CDA Policy
In general, the CDA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the CDA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the CDA chooses to obtain oral third-party verification, the CDA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]
Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

CDA Policy
If the family cannot provide original documents, the CDA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

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.

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the CDA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded

- Net family assets are less than or equal to the HUD-published threshold ($50,000 for 2024, and $51,600 for 2025) and the CDA has adopted a policy to accept self certification
- The family declares that they do not have any present ownership in any real property
- A family reports zero income;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The CDA has adopted a policy to implement streamlined verification for fixed sources of income (See Chapter 11)

When the CDA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.
HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

CDA 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 they have provided to the CDA.

The CDA 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 the CDA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

Part II: Verifying FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

CDA Policy
The CDA will require families to furnish verification of legal identity for each household member.

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

Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Adoption papers Custody agreement Health and Human Services ID Certified school records

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

If none of these documents can be provided and at the CDA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the CDA and must be signed by the family member whose information or status is being verified.

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

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27]

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 their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The CDA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While CDAs must attempt to gather third-party verification of SSNs prior to admission as listed above, CDAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the CDA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the CDA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the CDA must obtain a valid SSN card issued by the SSA or an original

document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

CDA Policy
The CDA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The CDA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

CDA Policy
The CDA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the CDA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The CDA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

CDA Policy
The CDA will grant one additional 90-day extension if needed for reasons 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 the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the CDA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the CDA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

CDA Policy
The CDA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 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 or recertification, in addition to the documentation required to verify it. The CDA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 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 CDA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the CDA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

CDA Policy

The CDA will grant one additional 90-day extension if needed for reasons 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.

Social security numbers must be verified only once during continuously assisted occupancy.

CDA Policy

The CDA will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the CDA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

CDA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the CDA will not remove and 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 the receipt of social security retirement benefits is acceptable.

CDA Policy

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

Age must be verified only once during continuously assisted occupancy.

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.

CDA 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.

Marriage

CDA Policy

Certification by the head of household is normally sufficient verification. If the CDA has reasonable doubts about a marital relationship, the CDA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

CDA Policy

Certification by the head of household is normally sufficient verification. If the CDA has reasonable doubts about separation or divorce, the CDA will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A 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.

Absence of Adult Member

CDA 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), if the CDA so requests.

Foster Children and Foster Adults

CDA Policy

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

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

CDA Policy

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

The family reports full-time student status for an adult other than the head, spouse, or cohead.

The family reports childcare expenses to enable a family member to further their 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.

CDA Policy
In accordance with the verification hierarchy described in section 7-I.B, the CDA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in section 3-II.E.
- The student is a person with disabilities, as defined in section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the CDA cannot verify at least one of these exemption criteria, the CDA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the CDA will then proceed to verify either the student's parents' income eligibility (see section 7-III.M) or the student's independence from their parents (see below).

Independent Student

CDA Policy
The CDA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the CDA determines that the student is a *vulnerable youth* (see section 3-II.E)

7-II.F. DOCUMENTATION OF DISABILITY
The CDA must verify the existence of a disability in order to allow certain income disallowances and

deductions from income. The CDA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The CDA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the CDA receives a verification document that provides such information, the CDA will not place this information in the tenant file. Under no circumstances will the CDA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

CDA Policy

For family members claiming disability who receive disability benefits from the SSA, the CDA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the CDA will request a current (dated within the appropriate benefit year) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the CDA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the CDA.

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.

CDA 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 CDA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals
HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors. The CDA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

CDA Policy
Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the CDA 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 has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

CDA Verification [HCV GB, pp. 5-3 and 5-7]
For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the CDA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).
The CDA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS
The CDA must verify any preferences claimed by an applicant that determined placement on the waiting list.

CDA Policy
The CDA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The CDA will verify this preference using the CDA's termination records.

The CDA also offers a preference for victims of domestic violence, dating violence, sexual

assault, stalking, or human trafficking, as described in Section 4-III.C. To verify that applicants qualify for the preference, the CDA will follow documentation requirements outlined in Section 16-IX.D.

PART III: Verifying Income AND ASSETS

Chapter 6 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 income reported by the family must be verified. This part provides CDA policies that supplement the general verification procedures specified in Part I of this chapter.

CDA Policy
The following policies do not apply when the CDA uses a Safe Harbor income determination from a means-tested federal assistance program.

7-III.A. EARNED INCOME

Tips

CDA Policy
Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

CDA Policy
When the CDA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The CDA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

CDA Policy
Business owners and self-employed persons will be required to provide:

- Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not have to file tax returns, The CDA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the CDA will provide a format for the individual to declare their income and expenses. The CDA will also review the printed statement of monthly

income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

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

If a family member has been self-employed for less than three (3) months, the CDA 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 the CDA 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

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

Social Security/SSI Benefits [Notice PIH 2023-27]

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the CDA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the appropriate benefit year) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the CDA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The CDA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the CDA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the CDA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. CDAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The CDA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the CDA must request a current SSA benefit verification letter (dated within the appropriate benefit year) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the CDA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The CDA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for

SS/SSI benefits.

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

CDA Policy

Verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to CDA 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

Note: Families are not required to undertake independent enforcement action.

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. CDAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

CDA Policy

The CDA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the CDA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables ($50,000 for 2024, $51,600 for 2025), the CDA may, but is not required to, accept the family's self-certification that the family's assets do not exceed the HUD-published threshold without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed the HUD-published threshold), may generate asset income. CDAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For CDAs that choose to accept self-certification, the CDA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

If the CDA chooses not to accept self-certifications of assets, it must verify all families' assets on an annual basis.

When net family assets have a total value over the HUD-published threshold, the CDA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed

the HUD-published threshold.

When verification of assets is required, CDAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

CDA Policy
For families with net assets less than or equal to the HUD-published threshold listed in the current year's Inflation-Adjusted Values tables, the CDA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show the total amount of income expected from all assets. All family members 18 years of age and older must sign the family's declaration. The CDA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the CDA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the CDA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2); Notice PIH 2023-27]
The CDA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3. The CDA may accept a self-certification from the family stating that the family does not have any present ownership in any real property. If the family certifies that they do not have any present ownership interest in real property, the CDA may take that as sufficient to determine the family is not out of compliance with the real property restriction. If the family declares they have present ownership in real property, the CDA must obtain third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

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

If the family declares they have a present ownership in real property, the CDA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the CDA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. NET INCOME FROM RENTAL PROPERTY

CDA 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, the CDA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.H. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

CDAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables ($50,000 for 2024, $51,600 for 2025), even in years when full verification of assets is required or if the CDA does not accept self-certification of assets. CDAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than the HUD-published threshold.

7-III.I. RETIREMENT ACCOUNTS

CDA Policy

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

7-III.J. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the CDA is **not** required to follow the verification hierarchy. For fully excluded income, the CDA is **not** required to document why third-party verification is not available or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

The CDA may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, CDAs have the option of requiring additional verification.

For partially excluded income, the CDA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

CDA Policy
The CDA will accept the family's self-certification as verification of fully excluded income. The CDA may request additional documentation if necessary to document the income source.
The CDA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.K. ZERO INCOME FAMILIES [Notice PIH 2023-27]

The CDA has discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching any UIV sources for unreported income.

In calculating annual income, CDAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)].
CDAs may accept a self-certification of zero income from the family without taking any additional steps to verify zero reported income. HUD does not require such self-certifications to be notarized.

If the CDA performs zero income reviews, it must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

CDA Policy
The CDA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc., are not being received by families claiming to have zero annual income.

The CDA will also require that each family member who claims zero income status completes a zero-income form. If any sources of income are identified on the form, the CDA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The CDA will only conduct interims in accordance with CDA policy in Chapter 11.

7-III.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are included [24 CFR 5.609(b)(9)(ii)].

CDA Policy
The CDA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the

student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.
In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the CDA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the CDA is unable to obtain third-party written verification of the requested information, the CDA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

7-III.M. 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 their parents or a *vulnerable youth* in accordance with CDA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

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

CDA Policy

If the CDA is required to determine the income eligibility of a student's parents, the CDA will request an income declaration and certification of income from the appropriate parent(s) (as determined in section 3-II.E). The CDA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the CDA. The required information must be submitted (postmarked) within 10 business days of the date of the CDA's request or within any extended timeframe approved by the CDA.

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

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The CDA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

Elderly/Disabled Family Deduction
See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The CDA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The CDA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The CDA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the CDA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

CDA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

When income is projected at new admission or interim, the CDA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The CDA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

When income is projected at new admission or interim, if third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the CDA will redact all personally identifiable information.

If the CDA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the CDA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the CDA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will CDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the CDA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care 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 health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The CDA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses
To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 of the CDA's policy on what counts as a medical expense.

Unreimbursed Expenses
To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

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

Expenses Incurred in Past Years

CDA Policy
At new admission and interim reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, the CDA will verify:
The anticipated repayment schedule
The amounts paid in the past, and
Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES
Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The CDA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The CDA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the CDA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense
Attendant Care

CDA Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

When income is projected at new admission or interim, if third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the CDA will redact all personally identifiable information.

If the CDA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the CDA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to disposed of, the CDA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will CDA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

CDA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the CDA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

Family Member is a Person with Disabilities
To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The CDA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work
The CDA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

CDA Policy
The CDA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses
To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

CDA 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. CHILDCARE EXPENSES
Policies related to childcare expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the CDA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child
To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The CDA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense
To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

CDA Policy

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

Pursuing an Eligible Activity

The CDA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

CDA Policy

Information to be Gathered

The CDA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (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

Whenever possible the CDA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the CDA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the CDA any reports provided to the other agency.

In the event third-party verification is not available, the CDA will provide the family with a form on which the family member must record job search efforts. The CDA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The CDA will request third-party documentation to verify that the person permitted to further their education by the childcare 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

The CDA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Childcare

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

CDA Policy

The CDA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6.

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

The CDA will verify that the childcare provider is not an assisted family member. Verification

will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

CDA Policy

The actual costs the family incurs will be compared with the CDA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

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

EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the CDA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

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

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

CHAPTER 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the CDA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and CDA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the units meet HQS.

HUD also requires the CDA to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and CDA requirements related to housing quality and rent reasonableness as follows:

> Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
>
> Part II. The Inspection Process. This part describes the types of inspections the CDA will make and the steps that will be taken when units do not meet HQS.
>
> Part III. Rent Reasonableness Determinations. This part discusses the policies the CDA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke and Carbon Monoxide Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the CDA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the CDA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

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 unit. Such modifications are at the family's expense. The owner may require restoration of the 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 the customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary, to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest-bearing escrow account over a reasonable period. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

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 of this plan for additional information on reasonable accommodations for persons with disabilities.

CDA Policy

Any owner that intends to negotiate a restoration agreement or requires an escrow account must submit the agreement(s) to the CDA for review.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The CDA may impose variations to the HQS if the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The CDA 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.

CDA Policy

The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

CDA Policy

As permitted by HUD, the CDA has adopted the following specific requirements that elaborate on HUD standards.

Walls and Ceilings

In areas where plaster or drywall is sagging, severely cracked, including large holes that may result in air infiltration or vermin infestation or is otherwise damaged, it must be repaired or replaced.

Ceilings with large holes and other serious defects must be repaired or replaced.

For units built prior to 1978 and with occupants under the age of 6, owners will be required

to scrape peeling paint and repaint all surfaces cited for peeling paint with 2 coats of non-lead paint (See HUD Guidebook 1.4 for further information about Lead Based Pain regulations/requirements). An extension may be granted as a severe weather-related item as defined below.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

In rooms with openable windows, at least one intact window screen, in good condition, will be required.

Taping or caulking of window cracks is generally not acceptable.

The placement of a bed or other furniture in front of a window that blocks egress (no other window available escape) will need to be removed and relocated to another part of the room.

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors, in finished spaces, must have all trim intact, and be openable without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Broken, uneven or missing steps must be repaired or replaced.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All sinks must have functioning stoppers at initial inspection.

Toilets

All worn or cracked toilet seats and tank lids must be replaced, and toilet tank lids must fit properly.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Emergency Back Up lights located in hallways and stairwells must be operating.

Double keyed deadbolt locks are not acceptable.

Electrical Specifications

Any surface mounted Romex wiring should be run in such a manner to be protected from any damage, and all surface wiring is to be securely attached to structural components.

Cord or pull chain fixtures shall be cloth (non-metallic) in areas with moisture (e.g., kitchen bathroom and basement).

If accessible, all missing light bulbs should be installed to close an open electrical socket.

Dead outlets should be made operable, or device removed, wires properly capped and a blank cover installed on box.

Electrical service panel shall have no open knockouts.

A three-way switch must be installed for stairway lighting if there is a basement bedroom and lighting from the top of the stairs to the bedroom must be adequately continuous to permit a person to safely walk from the top of the stairs to the bedroom.

Infestation

The owner is responsible for treating vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation, and the owner may evict for serious or repeated violation of the lease. The CDA may terminate the family's assistance on that basis.

Utilities

A ¾" overflow pipe must be present on the hot water heater safety valves and terminate to a safe place of disposal or within 18 inches of the floor.

In cases where the utilities are not separately metered, the landlord must comply with MN Statute 504B.215.

Smoke and Carbon Monoxide Detectors

The owner will be required to repair an inoperable smoke or carbon monoxide detector unless the CDA 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 or carbon monoxide detector.

8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]

HUD requires the CDA 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 CDA notification.

The CDA may give a short extension (not more than forty-eight (48) additional hours) whenever the responsible party cannot be notified, or it is impossible to correct the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the CDA.

CDA Policy

The following are considered life-threatening conditions:

Any condition that jeopardizes the security of the unit

- Major plumbing leaks or flooding, waterlogged ceiling, or floor in imminent danger of falling.
- Natural or LP gas or fuel oil leaks
    - A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled.
- Any electrical problem or condition that could result in shock or fire.
    - Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
- Absence of a working heating system when outside temperature is below 40 degrees Fahrenheit and inside unit is below 68 degrees Fahrenheit.
- Utilities not in service, including no running hot or cold water.
- Conditions that present the imminent possibility of injury.
- Obstacles that prevent safe entrance or exit from the unit.
- Absence of a functioning toilet in the unit.
- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting.
- Broken lock(s) on the first-floor door or windows.
- Broken windows that unduly allow weather elements into the unit.

If an owner fails to correct life-threatening conditions as required by the CDA, the CDA will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by the CDA, the CDA will enforce the family obligations. See 8-II.H.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

If a CDA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the CDA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the CDA, 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; 40 CFR 745.227]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the CDA will act in accordance with Section 8-II.G.

CDA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family.
- Have at least one bedroom or living/sleeping room for each two persons.

A unit that does not meet these HQS space standards is defined as *overcrowded.*

A living room may be used as sleeping (bedroom) space, but no more than two people may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the CDA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the CDA must issue the family a new voucher, and the family and CDA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the CDA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The CDA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. The CDA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.

- *Annual/Biennial Inspections*. HUD requires the CDA to inspect each unit under lease at least annually or biennially, depending on CDA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

Inspection of CDA-Owned Units [24 CFR 982.352(b)]

The CDA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a CDA-owned unit. A CDA-owned unit is defined as a unit that is owned by the CDA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the CDA). The independent entity must communicate the results of each inspection to the family and the CDA. The independent agency must be approved by HUD and may be the unit of general local government for the CDA jurisdiction (unless the CDA is itself the unit of general local government or an agency of such government).

Inspection Costs [Notice PIH 2016-05]

The CDA may not charge the family for unit inspections or reinspection [24 CFR 982.405(e)]. In the case of inspections of CDA-owned units, the CDA may compensate the independent agency from ongoing administrative fee for inspections performed. The CDA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)]. The CDA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the CDA may charge a reasonable fee to owners for reinspection in two situations: when the owner notifies the CDA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the CDA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

CDA Policy

The CDA will not charge a fee for failed reinspection.

Remote Video Inspections (RVIs) [Notice PIH 2020-31]

As an alternative to some or all on-site inspections, the CDA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow the CDA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31 requires that if the CDA chooses to implement RVIs, the CDA should have policies and procedures in place to address such limitations.

CDA Policy

The CDA will only conduct HQS inspections using RVI when there is no other available method to successfully complete the inspection and without doing so assistance cannot begin or continue.

If, during an RVI, the application of technology provides insufficient information or evidence to the CDA to allow an appropriate determination, the CDDA will conduct an in-person inspection as soon as practicable, as long as the item(s) are not life threatening in nature.

Notice and Scheduling

The family must allow the CDA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

CDA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days.

Owner and Family Inspection Attendance

HUD permits the CDA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

CDA Policy

When a family occupies the unit at the time of inspection an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but not required.

At initial inspection of a vacant unit, the CDA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted but not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Initial Inspections [FR Notice 1/18/17]

The CDA may, but is not required to, approve assisted tenancy, and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life threatening. Further, the CDA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

CDA Policy

The unit must pass the HQS inspection on or before the effective date of the HAP contract.

The CDA will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing a HAP contract with the owner.

Timing of Initial Inspections

HUD requires CDA's with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For CDAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

CDA Policy

The CDA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the results in a reasonable, timely and efficient manner indicative of good customer service.

A unit that has been pre-inspected, without intervening occupancy, will be valid if inspected within 90 days of the effective date of assistance.

Inspection Results and Reinspection

CDA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the CDA for good cause. The CDA will reinspect the unit within 15 business days of the date the owner notifies the CDA that the required corrections have been made.

If the time period for correcting the deficiencies (or any CDA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the CDA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The CDA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

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.

CDA Policy

If utility service is not available for testing at the time of the initial inspection, the CDA will allow the utilities to be placed in service after the unit has met all other HQS requirements. The CDA will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by the CDA.

Appliances [Form HUD-52580]

CDA Policy

If the family is responsible for supplying the stove and/or refrigerator, the CDA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the CDA. The CDA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working.

8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]

CDA Policy

Each unit under HAP contract must be inspected biennially within 24 months of the last full HQS inspection. The CDA reserves the right to require annual inspections of any unit or owner at any time.

The CDA will not rely on alternative inspection standards.

Scheduling the Inspection

CDA Policy

If an authorized adult cannot be present on the scheduled date, the family should request that the CDA reschedule the inspection. The CDA and family will agree on a new inspection date that generally should take place within 15 business days of the originally scheduled date. The CDA may schedule an inspection more than 15 business days after the original date for good cause.

The CDA will automatically schedule up to 3 inspection appointments. If the family misses the scheduled inspections without CDA approval, the CDA will consider the family to have violated its 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.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the CDA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the CDA must inspect the unit within 15 days of notification.

CDA Policy

The individual who reports the deficiency must contact the responsible party (owner or tenant) and provide evidence they have made an adequate attempt to have the responsible party remedy the issue prior to the CDA agreeing to conduct a special inspection.

During a special inspection, the CDA generally will inspect only those 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 annual/biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the CDA may elect to conduct a full annual/biennial inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); 24 CFR 985.3(e); HCV GB, p. 10-32]

HUD requires a CDA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the CDA will determine (1) whether the failure is a life-threatening condition and (2) whether the family or owner is responsible.

CDA Policy

When life-threatening conditions are identified, the CDA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the CDA's notice.

When failures that are not life-threatening are identified, the CDA will send the owner and the family a written notification of the inspection results. The written notice will specify who is

responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any CDA-approved extension), the owner's HAP will be abated in accordance with CDA policy (see 8-II.G.).

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 CDA-approved extension, if applicable) the family's assistance will be terminated in accordance with CDA policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the CDA cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the CDA may grant an exception to the required time frames for correcting the violation, if the CDA determines that an extension is appropriate [24 CFR 982.404].

CDA Policy

Extensions will be granted in cases where the CDA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days once the weather conditions have subsided.

Reinspection

CDA Policy

The CDA will conduct a reinspection immediately following the end of the corrective period, or any CDA approved extension or obtain a certification from the owner and tenant that all work has been completed.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the CDA 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 CDA policies. If the CDA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the CDA will consider the family to have violated its 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 CDA must take prompt and vigorous action to enforce the owner's obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the CDA, HUD requires the CDA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

CDA Policy

For non-emergency failures in occupied units, owners will be given the option of certifying that the defects have been corrected through either the CDA provided Certification of Completed HQS Repairs form or copies of completed work orders. If a certification is not provided to the CDA, HAP will be abated on the first of the month following the correction period. The CDA will make all HAP abatements effective the first of the month following the expiration of the CDA specified correction period (including any extension).

The CDA may inspect abated units within 10 business days of the owner's notification that the work has been completed or obtain the Certification of Completed HQS Repairs form. Payment will resume effective the date the CDA is notified that the work has been completed and is verified through a passed inspection or completed certification.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The CDA must decide how long any abatement period will continue before the HAP contract will be terminated. The CDA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The CDA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

CDA Policy

The maximum length of time that HAP may be abated is 60 days. However, if the owner completes corrections and notifies the CDA before the termination date of the HAP contract, the CDA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

The CDA will provide a 30-day notice of HAP contract termination.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the CDA (and any extensions), the CDA will terminate the family's assistance, according to the policies described 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

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the CDA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

CDA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a CDA-owned unit, the CDA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A CDA-owned unit is defined as a unit that is owned by the CDA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the CDA). The independent entity must communicate the results of the rent reasonableness determination to the family and the CDA. The independent agency must be approved by HUD and may be the unit of general local government for the CDA jurisdiction (unless the CDA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The CDA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The CDA (or independent agency in the case of CDA-owned units) will assist the family with the negotiations upon request. At initial occupancy, the CDA 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.

CDA Policy

The CDA requires owners and families to maintain a lease agreement throughout tenancy. Changes in rent may be requested by the owner with 60 days' notice to the CDA and the tenant at that time.

CDA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the CDA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD may also direct the CDA to make a determination at any other time. The CDA may decide that a new determination of rent reasonableness is needed at any time.

CDA Policy

In addition to the instances described above, the CDA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the CDA determines that the initial rent reasonableness determination was in error or (2) the CDA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the CDA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the CDA for the unit size involved.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires the CDA to take into consideration the factors listed below when determining rent comparability. The CDA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparable

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance. [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

Units for which the owner has decided of his or her own decision to charge rents that are below what other tenants are charged and what the market might bear are <u>not</u> assisted units for purposes of rent reasonableness determinations. Rents for these units in the property must be considered to establish if an HCV rent to owner is reasonable.

In addition to HUD assisted units, the following units are also considered to be assisted units and must not be used as a comparable:

- Units where the rents and/or rent increases are controlled or restricted by law or a court order, so long as the law or court order does not apply to voucher participants. The CDA is responsible for verifying the existence and applicability of the law or court order prior to excluding the units from the rent reasonableness determination.
- In cases of a property undergoing a Housing Conversion Action, units occupied by tenants on the date of the eligibility event who do not receive vouchers are considered assisted if the owner chooses to continue below market rents to those families by offering lower rents or other rent concessions to the impacted families. If the owner of such a property intends to charge lower rents to the non-voucher tenants at the time of conversion, the owner must provide written notice to the CDA and a list of the covered families, a description of the concession, the duration of the lower rents or concessions, the units in which the families are residing and copies of the families' leases. This applies to both new conversions and prior actions.
- ***Note:*** Notice PIH 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the CDA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the CDA information regarding rents charged for other units on the premises.

8-III.D. CDA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

CDA Policy

The CDA will collect and maintain data on market rents in the CDA's jurisdiction. Information sources include newspapers, realtors, market surveys, online rental information (vacancy listings, CoStar, and HousingLink) inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract and zones. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

How Rents Are Determined

CDA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The CDA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the CDA may make adjustment to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

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 unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The CDA will notify the owner of the rent the CDA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The CDA 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 5 business days of the CDA's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero-bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities within 30 days when identified by the CDA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.
- Maintain covered housing without deteriorated paint if there is a child under six in the family

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by the CDA). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities within 30 days.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors and Carbon Monoxide (CO) 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).

According to Minnesota Statute 299F.50 effective August 1, 2008, Carbon Monoxide alarms are required of all existing single-family homes. Effective August 1, 2009, CO alarms are required for all multifamily housing, including duplexes through apartment complexes. These alarms must be installed in accordance with the manufacturer’s installation instructions

Hazards and Heath/Safety

The unit, interior, and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke and carbon monoxide detectors.

CHAPTER 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

For the CDA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the CDA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the CDA and pass applicable quality standards [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the CDA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

The CDA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The CDA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the CDA's policies regarding screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before CDA approval of the tenancy, the CDA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The CDA must also inform the owner or manager or their rights and responsibilities under the Violence against Women's Act (VAWA) [24 CFR 5.2005(a)(2)]. The CDA must provide the owner with the family's current and prior address (as shown in the CDA records); and the name and address (if known to the CDA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The CDA is permitted, but not required, to offer the owner other information in the CDA's possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(The CDA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The CDA may not disclose to the owner any confidential information provided by the family in response to a CDA request for documentation of domestic violence, dating violence, sexual assault, stalking or human trafficking, except at the written request or with the written consent of the individual providing the

documentation [24 CFR 5.2007(b)(4)].

CDA Policy

The CDA will not screen applicants for family behavior or suitability for tenancy.

The CDA will not provide additional screening information to the owner.

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517 and 24 CFR 982.302]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the CDA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the CDA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the CDA to determine whether to approve the assisted tenancy in this unit.

Owners must certify the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the CDA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

The CDA must identify in the administrative plan whether the family will be permitted to submit more than one RTA at a time [24 CFR 982.54(d)(25)].

CDA Policy

- The RTA must be signed by both the family and the owner. Completed RTA must be submitted as hard copies, in-person, by mail, by email, or by fax.
- The family is responsible for submitting the RTA to the CDA. The family may not submit, and the CDA will not process, more than one (1) RTA at a time.
- When the family submits the RTA, the CDA will review the RTA for completeness.
    - If the RTA is incomplete (including lack of signature by family, owner, or both), the CDA will notify the family and the owner of the deficiencies.
    - Missing information and/or documents will only be accepted as hard copies, in-person, by mail, fax, email, or phone.

- When the family submits the RTA and proposed lease, the CDA will also review the terms of the RTA for consistency with the terms of the proposed lease.
    - If the terms of the RTA are not consistent with the terms of the proposed lease, the CDA will notify the family and the owner of the discrepancies.
    - Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail, by email or by fax. The CDA will not accept corrections by phone.
- The CDA prefers RTA's to have a lease effective date of the 1st day of the month.
- Lease effective dates must be, the first of the month, following 60 days of the voucher expiration date.

9-I.C. OWNER PARTICIPATION

The CDA does not formally approve an owner to participate in the HCV program. However, there are several criteria where the CDA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. These are also criteria for which the CDA must disapprove of an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are several criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the CDA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The CDA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; or units occupied by its owner or by a person with any interest in the unit (not applicable to cooperatives or manufactured home owners leasing lot space).

CDA-Owned Units [24 CFR 982.352(b)]

CDA-owned units as defined in 24 CFR 952.4 may also be leased in the voucher program. For a CDA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the CDA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a CDA-owned unit without any pressure or steering by the CDA. The CDA must obtain the services of an independent entity to perform certain functions as described in 24 CFR 982.352(b)(v)(A).

CDA Policy

The CDA has eligible CDA-owned units available for leasing under the voucher program. The CDA will inform the family of this housing at the time of the briefing. The CDA will also inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a CDA-owned unit without any pressure or steering the CDA.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the CDA to permit families to use voucher assistance in several special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the CDA has chosen to allow.

The regulations do require the CDA 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);
- 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.

Initial Inspection

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition and pass applicable housing quality standards. See Chapter 8 for a full discussion of inspection standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of people in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued

to the family. See Chapter 5 for a full discussion of subsidy standards.

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 the rent charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

CDA Policy

Affordability determinations are intended to ensure the family's ability to maintain their housing. For this reason, if the CDA has determined a unit to be unaffordable, based on the family's income, contributions from others will not be accepted to meet affordability.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the CDA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

CDA Policy

The CDA does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all 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 the owner.
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the CDA to approve a shorter initial lease term if certain conditions are met.

CDA Policy

The CDA will consider approving an initial lease term of less than one (1) year if it is determined:

1. Such shorter term would improve housing opportunities for the applicant/participant; and
2. Such shorter term is the prevailing local marketplace.

During the initial term of the lease, the owner may not raise the rent to the owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

CDA Policy

The CDA requires a new lease to be executed, when applicable.

The CDA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The CDA 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 CDA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

CDA Policy

- The CDA prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants. The CDA will add this provision to Part A of the HAP contract, executed between the CDA and the owner.
- When the tenant moves out of the dwelling 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 rent payable by the tenant, damages to the unit or for other amounts the tenant owes 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, if any, used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the tenant.
- If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the CDA minus the CDA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

CDA Policy

- The CDA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.
- Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.
- Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance, or service, may be included in a separate non-lease agreement between the owner and the family.
- The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.
- Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

CDA Review of Lease

The CDA will review the dwelling lease for compliance with all applicable requirements.

CDA Policy

If the dwelling lease is incomplete or incorrect, the CDA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, email, or fax. The CDA will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the CDA will attempt to communicate with

the owner and family by phone, fax, or email. The CDA will use mail when the parties can't be reached by phone, fax, or email.

The CDA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the CDA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

CDA Policy

The CDA will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the CDA 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 CDA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the CDA and meets the housing quality standards; the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the CDA, 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)].

CDA Policy

The CDA will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA are changed for any reason, the changes will be noted on the RTA as well as whom from the family and/or owner who approved the change.

Corrections to the proposed lease will only be accepted as hard copies, in-person, by mail, by email, or by fax. The CDA will not accept corrections over the phone.

If the CDA 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. The CDA will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability or rent reasonableness, the family 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.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the CDA and the owner of the dwelling unit. Under the HAP contract, the CDA agrees to make housing assistance payments to the owner on behalf of the family,

and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the CDA has given approval for the family of the assisted tenancy, the owner and the CDA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The CDA 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 CDA must make its 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. Any HAP contract executed after the 60-day period is void, and the CDA may not pay any housing assistance payment to the owner, unless there are extenuating circumstances that prevent or prevented the CDA from meeting the 60-day deadline then the CDA may submit to the HUD field office a request for an extension no later than two weeks after the 60-day deadline.

The CDA 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 CDA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the CDA may not pay any housing assistance payment to the owner.

CDA Policy

Owners who have not previously participated in the HCV program are strongly encouraged to attend a meeting with the CDA in which the terms of the Tenancy Addendum and the HAP contract will be explained.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the CDA. The CDA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the CDA will execute the HAP contract. The CDA will not execute the HAP contract until the owner has submitted IRS form W-9. The CDA will ensure that the owner receives a copy of the executed HAP contract.

As required under VAWA, once the HAP contract and lease have been executed and the family has been admitted to the program, the CDA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the CDA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, CDA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are

required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances.
- Changes in lease provisions governing the term of the lease.
- The family moves to a new unit, even if the unit is in the same building or complex.

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to the owner, the owner must notify the CDA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The CDA 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, terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

CDA Policy

Where the owner is requesting a rent increase, the CDA will determine whether the requested increase is reasonable within 15 business days of receiving the request from the owner. If the rent is deemed unreasonable, the owner will be notified of the determination.

Rent increases will go into effect on the first of the month of the annual recertification date following the 60-day period after the owner notifies the CDA of the rent change coinciding with the new lease date.

CHAPTER 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and CDA policies governing moves within or outside the CDA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the CDA's HCV program, whether the family moves to another unit within the CDA's jurisdiction or to a unit outside the CDA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the CDA's jurisdiction. This part also covers the special responsibilities that the CDA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the CDA a copy of the notice at the same time [24 CFR 982.354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].

  CDA Policy

  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the CDA a copy of the termination agreement.

- The owner has given the family notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give the CDA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the move is needed to protect the health or safety of the family or family member [24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the CDA, if the family or family member who is the victim reasonably believed that they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.354(b)(4), 24 CFR

982.353(b)]. The CDA must adopt an emergency transfer plan as required by regulations at 24 CFR 5.2007€.

CDA Policy

If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by the CDA based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the CDA that the resident request the emergency transfer using form HUD-5383, and the CDA will request documentation in accordance with section 16-IX.D of this plan.

The CDA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the CDA will document the waiver in the family's file.

The CDA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

Before granting an emergency transfer, the CDA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

The CDA has adopted an emergency transfer plan, which is included as Exhibit 16-3 in this plan and discusses the external transfers to other covered housing programs.

- The CDA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].
- The CDA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the CDA must issue the family a new voucher, and the family and CDA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the CDA 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 CDA gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a CDA may deny a family permission to move and two ways in which a CDA may restrict moves by a family.

Denial of Moves

HUD regulations permit the CDA to deny a family permission to move under the following conditions:

Insufficient Funding

The CDA may deny a family permission to move either within or outside the CDA's jurisdiction if the CDA does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)]. However, Notice PIH 2016-09 significantly restricts the ability of CDAs to deny permission to move due to insufficient funding and places further requirements on CDAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

CDA Policy

The CDA will deny a family permission to move on grounds that the CDA does not have

sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the CDA; (b) the CDA can demonstrate that the move will, in fact, result in higher subsidy costs (c) the CDA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving CDA is not absorbing the voucher.

If the CDA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the units failed HQS), the family may move to a higher cost unit if the move is within the CDA's jurisdiction. The CDA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both moves within the CDA's jurisdiction and outside under portability, the CDA will not deny a move due to insufficient funding if the CDA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The CDA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

The CDA will create a list of families whose moves have been denied due to insufficient funding. The CDA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The CDA 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).

The CDA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

The CDA may deny a family permission to move if the CDA has grounds for denying or terminating the family's assistance [24 CFR 982.354(e)(2)]

CDA Policy

If the CDA has grounds for denying or terminating a family's assistance, the CDA 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.

Restrictions on Elective Moves [24 CFR 982.354(c)]

HUD regulations permit the CDA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the CDA 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, stalking, or human trafficking, and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.) In addition, the CDA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

CDA Policy

- The CDA will deny a family permission to move if the family owes the CDA or any CDA money.
- The CDA will deny a family permission to make more than one move during any 12-month period. This policy applies to moves within the same complex, within the CDA's jurisdiction

or outside it under portability.

- If a program participant decides to move more than once in a 12-month period and is residing in the CDA's jurisdiction under portability, their file will be sent back to the initial housing authority.
- The CDA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), unit is sold by landlord, unit is in foreclosure, natural disaster, flood, or fire not caused by family, or to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area). The family must enter into a mutual termination of the lease agreement with the owner.
- In addition, the CDA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the CDA and the owner *before* moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)(2)]. If the family wishes to move to a unit outside the CDA's jurisdiction under portability, the notice to the CDA must specify the area where the family wishes to move [24 CFR 982.354(d)(2)]. The notices must be in writing [24 CFR 982.5].

CDA Policy

The family must provide the owner and the CDA with a written notice 61 days prior to moving out of the old unit or terminating the lease.

The 61-day notice will be waived in instances where the family does not have a choice in the move (e.g., an owner/landlord requires a shorter notice period, the family reaches an agreement with the owner/landlord in lieu of an eviction filing).

Approval

CDA Policy

Upon receipt of a family's notification that it wishes to move, the CDA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I. A and 10-I.B. The CDA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

CDA Policy

For families approved to move to a new unit within the CDA's jurisdiction, the CDA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan. Annual reexamination verifications, in file, for income, assets, expenses that are less than 180 days will be used to process the new reexamination. Verifications older than 180 days must be updated.

For families moving into or families approved to move out of the CDA's jurisdiction under portability, the CDA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

CDA Policy

For families approved to move to a new unit within the CDA's jurisdiction, the CDA will issue a new voucher within 10 business days of the CDA's written approval to move. The CDA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the CDA approves. Otherwise, the family will lose its assistance.

If the move is canceled and the family remains in its current unit, the CDA will not issue another voucher for 180 days from the date of the voucher expiration.

For families moving into or families approved to move out of the CDA's jurisdiction under portability, the CDA will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the CDA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

Zero HAP Families Who Wish to Move [24 CFR 982.455]

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The CDA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if the CDA determines no subsidy would be paid at the new unit, the CDA may refuse to enter into a HAP contract on behalf of the family.

CDA Policy

If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, the CDA will not enter into a HAP contract on behalf of the family for the new unit.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a CDA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one CDA and uses it to lease a unit in the jurisdiction of another.

CDA is known as portability. The CDA that issues the voucher is called the initial CDA**.** The CDA that has jurisdiction in the area to which the family wants to move is called the receiving CDA.

The receiving CDA has the option of administering the family's voucher for the initial CDA or absorbing the family into its own program. Under the first option, the receiving CDA provides all housing services

for the family and bills the initial CDA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving CDA pays for the family's assistance with its own program funds, and the initial CDA has no further relationship with the family. The initial CDA must contact the receiving CDA via email or other confirmed delivery method to determine whether the receiving CDA will administer or absorb the initial CDA's voucher. Based on the receiving CDA's response, the initial CDA must determine whether they will approve or deny the portability request [Notice PIH 206-09].

CDAs commonly act as both the initial and receiving CDA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The CDA will follow the rules and policies in section 10-II. B when it is acting as the initial CDA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving CDA for a family.

In administering portability, the initial CDA and the receiving CDA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

CDA's must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving CDA if the CDA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

10-II.B. INITIAL CDA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one CDA administering a voucher program [24 CFR 982.353(b)]. If there is more than one CDA in the area, the initial CDA provides the family with the contact information for the receiving CDAs that serve the area, and the family selects the receiving CDA. The family must inform the initial CDA which receiving CDA it has selected. If the family prefers not to select the receiving CDA, the initial CDA will select the receiving CDA on behalf of the family [24 CFR 982.255(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the CDA's jurisdiction under portability. HUD regulations and CDA policy determine whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the CDA's jurisdiction under portability. However, HUD gives the CDA 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 the CDA intends to deny a family permission to move under portability due to insufficient funding, the CDA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

CDA Policy

In determining whether to deny an applicant family permission to move under portability because the CDA lacks sufficient funding or has grounds for denying assistance to the family, the CDA will follow the policies established in section 10-I. B of this chapter. If the CDA does deny the move due to insufficient funding, the CDA will notify HUD in writing within 10 business days of the CDA's determination to deny the move.

In addition, the initial CDA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

CDA Policy

If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in the CDA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the CDA's jurisdiction for at least 12 months before requesting portability.

The CDA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Participant Families

The initial CDA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

CDA Policy

The CDA will determine whether a participant family may move out of the CDA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I. A and 10-I.B of this chapter. The CDA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].].

The initial CDA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.353(d)(1), 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, the CDA must inform the family that it may not move there and receive voucher assistance [Notice PIH -2016-09].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

CDA Policy

For a participant family approved to move out of its jurisdiction under portability, the CDA generally will conduct a reexamination of family income and composition.

The CDA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the CDA to provide information on portability to all applicant families that qualify to lease a unit outside the CDA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

CDA Policy

No formal briefing will be required for a participant family wishing to move outside the CDA's jurisdiction under portability. The CDA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

The CDA will provide the name, address, phone, and email of the contact for the CDAs in the jurisdiction to which they wish to move. If there is more than one CDA with jurisdiction over the area to which the family wishes to move, the CDA will advise the family that the family selects the receiving CDA and notify the initial CDA of which receiving CDA was selected. The CDA will provide the family with contact information for all the receiving CDAs that serve the area. The CDA will not provide any additional information about receiving CDAs in the area. The CDA will further inform the family that if the family prefers not to select the receiving CDA, the initial CDA will select the receiving CDA on behalf of the family. In this case, the CDA will not provide the family with information for all receiving CDAs in the area.

The CDA will advise the family that they will be under the receiving housing authority's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the CDA will follow the regulations and procedures set forth in Chapter 5.

CDA Policy

For participating families approved to move under portability, the CDA will issue a new voucher at the briefing.

The initial term of the voucher will be 120 days.

Voucher Extensions and Expiration

CDA Policy

The CDA will approve no extensions to a voucher issued to an applicant or participant family porting out of the CDA'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 CDA, (b) the family decides to return to the CDA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third CDA'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 the CDA's voucher program, a family that moves to another CDA's jurisdiction under portability must be under HAP contract in the receiving CDA's jurisdiction within 90 days following the expiration date of the initial CDA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one

exception to this policy.)

Preapproval Contact with the Receiving CDA

Prior to approving a family's request to move under portability, the initial CDA must contact the receiving CDA via email or other confirmed delivery method to determine whether the receiving CDA will administer or absorb the family's voucher. Based on the receiving CDA's response, the initial CDA must determine whether it will approve or deny the move [24 CFR 982.355(c)(3)].

CDA Policy

The CDA will use email, when possible, to contact the receiving CDA regarding whether the receiving CDA will administer or absorb the family's voucher.

Initial Notification to the Receiving CDA

After approving a family's request to move under portability, the initial CDA must promptly notify the receiving CDA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3), 24 CFR 982.355(c)(7)]. The initial CDA must also advise the family how to contact and request assistance from the receiving CDA [24 CFR 982.355(c)(6)].

CDA Policy

Because the portability process is time-sensitive, the CDA will notify the receiving CDA by phone, fax, or email to expect the family. The CDA will also ask the receiving CDA to provide any information the family may need upon arrival, including the name, fax, email address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The CDA will pass this information along to the family. The CDA will also ask for the name, address, telephone number, fax, and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving CDA

The initial CDA is required to send the receiving CDA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-09]
- A copy of the family's voucher [Notice PIH 2016-09]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary, in the case of an applicant family, family and income information in a format like that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2016-09]

CDA Policy

In addition to these documents, the CDA will provide the following information, if available, to the receiving CDA:

Documentation of social security numbers (SSNs) for all family members

Documentation of legal identity

Documentation of citizenship or eligible immigration status

The family's EIV data will be in a separate envelope marked "confidential"

Request for Tenancy Approval

Most recent application form

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program

The CDA will notify the family in writing regarding any information provided to the receiving CDA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2016-09]

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial CDA. In cases where suspension of the voucher delays the initial billing submission, the receiving CDA must notify the initial CDA of delayed billing before the billing deadline and document the delay is due to suspension. In this case, the initial CDA must extend the billing deadline by 30 days.

If the initial CDA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the receiving CDA in writing. The initial CDA may report to HUD the receiving CDA's failure to comply with the deadline.

If the initial CDA will honor the late billing, no action is required.

CDA Policy

The initial CDA's decision as to whether to accept late billing will be based on internal CDA factors, including the initial CDA's leasing or funding status. If the CDA has not received an initial billing notice from the receiving CDA within the billing deadline and does not intend to honor the late billing, it will contact the receiving to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. In this case, the CDA will send the receiving CDA a written confirmation of its decision by mail.

Among other considerations as to whether to accept late billing will be 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 CDA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]

If the receiving CDA is administering the family's voucher, the receiving CDA bills the initial CDA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial CDA must promptly reimburse the receiving CDA for the lesser of 80 percent of the initial CDA ongoing administrative fee or 100 percent of the receiving CDA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving CDA is billing the initial CDA 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 CDA may bill [24 CFR 982.355(e)(2)

The initial CDA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial CDA receives Part II of form HUD-52665 from the receiving CDA. Subsequent payments must be received by the receiving CDA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving CDA is able and willing to accept.

The initial CDA may not terminate or delay making payments under existing portability billing arrangements because of over-leasing or funding shortfalls. The CDA must manage its tenant-based

program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving CDAs as well as for families that remain within its jurisdiction.

CDA Policy

The CDA will process monthly billing requests with its monthly HAP check run. Initial billings will be processed as soon as they are received by the CDA. If the initial CDA extends the term of the voucher, the receiving CDA's voucher will expire 30 calendar days from the new expiration date of the initial CDA's voucher.

Annual Updates of Form HUD-50058

If the initial CDA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving CDA. If the initial CDA fails to receive an updated 50058 by the family's annual reexamination date, the initial CDA should contact the receiving CDA to verify the status of the family. The initial CDA must continue paying the receiving CDA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial CDA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

At any time, either the initial CDA or the receiving CDA may decide to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For CDA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING CDA ROLE

If a family has a right to lease a unit in the receiving CDA's jurisdiction under portability, the receiving CDA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that the CDA is not required to accept incoming portable families, such as the CDA is a declared disaster area. However, the CDA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving CDA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving CDA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving CDA waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving CDA [24 CFR 982.355(c)(12)], and the receiving CDA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial CDA's Request [24 CFR 982.355(c)]

The receiving CDA must respond via email or other confirmed delivery method to the initial CDA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving CDA informs the initial CDA that it will be absorbing the voucher, the receiving CDA cannot reverse its decision later without consent of the initial CDA (24 CFR 982.355(c)(4).

CDA Policy

The CDA will use email, when possible, to notify the initial CDA whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into the CDA's jurisdiction under portability, the family is responsible for promptly

contacting the CDA and complying with the CDA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving CDA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial CDA has expired, the CDA, as the receiving CDA, must contact the initial CDA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher expired with the family leasing a unit.

If for any reason the CDA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-09]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving CDA to require a briefing for an incoming portable family if the requirement does not unduly delay the family's search [Notice PIH 2016-09].

CDA Policy

The CDA will require the family to attend a briefing. The CDA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the CDA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

The receiving CDA does not redetermine eligibility for a portable family that was already receiving assistance in the initial CDA's voucher program [24 CFR 982.355(c)(9)]. If the receiving CDA opts to conduct a new reexamination for a current participant family, the receiving CDA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

CDA Policy

- For any family moving into its jurisdiction under portability, the CDA will generally rely upon the income information provided by the initial CDA and will not conduct a new reexamination of income and composition for incoming portable families.
- The CDA will rely upon any verifications provided by the initial CDA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.
- If the CDA opts to conduct a new reexamination, the CDA will not delay issuing the family a voucher or otherwise delay approval of a unit unless the reexamination is necessary to determine income eligibility or affordability.
- The CDA will determine the family's applicable subsidy standard and issue a voucher in accordance with the subsidy standards in Chapter 5.II.B.
- The CDA will conduct tenant screening for all families moving into its jurisdiction under portability, in accordance with its policies in Chapter 3.III.D.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving CDA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the

receiving CDA during the term of the receiving CDA's voucher [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance

HUD expects the receiving CDA to issue the voucher within two weeks after receiving the family's paperwork from the initial CDA if the information is in order, the family has contacted the receiving CDA, and the family complies with the receiving CDA's procedures [Notice PIH 2016-09].

CDA Policy

When a family ports into its jurisdiction, the CDA will issue the family a voucher based on the paperwork provided by the initial CDA unless the family's paperwork from the initial CDA is incomplete, the family's voucher from the initial CDA has expired or the family does not comply with the CDA's procedures. The CDA will update the family's information when verification has been completed.

Voucher Term

The term of the receiving CDA's voucher may not expire before 30 calendar days from the expiration of the initial CDA's voucher [24 CFR 982.355(c)(13)]. If the initial CDA extends the term of the voucher, the receiving CDA's voucher may not expire before 30 days from the new expiration date of the initial CDA's voucher [Notice PIH 2016-09].

CDA Policy

The CDA's voucher will expire 30 calendar days from the expiration date of the initial CDA's voucher. If the initial CDA extends the term of the voucher, the receiving CDA's voucher will expire 30 calendar days from the new expiration date of the initial CDA's voucher.

Voucher Extensions [24 CFR 982.355(c)(14), Notice 2016-09]

Once the receiving CDA issues the portable family a voucher, the receiving CDA's policies on extensions of the voucher term apply. The receiving CDA must inform the initial CDA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial CDA. Unless willing and able to absorb the family, the receiving CDA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial CDA.

CDA Policy

The CDA generally will not extend the term of the voucher that it issues to an incoming portable family unless the CDA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The CDA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2) and with the approval of the initial CDA.

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 CDA's voucher, the CDA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for CDA approval of the tenancy until the date the CDA 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 CDA

The receiving CDA must promptly notify the initial CDA 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 CDA's voucher [24 CFR 982.355(c)(16)]. The CDA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher,")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving CDA but instead wishes to return to the initial CDA's jurisdiction or to search in another jurisdiction, the CDA, as receiving CDA, must refer the family back to the initial CDA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial CDA. Any extension of search time provided by the receiving CDA's voucher is only valid for the family's search in the receiving CDA's jurisdiction. [Notice PIH 2016-09]

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 CDA bills the initial CDA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving CDA's program is determined in the same manner as for other families in the receiving CDA's program.

The receiving CDA may bill the initial CDA for the lesser of 80 percent of the initial CDA's ongoing administrative fee or 100 percent of the receiving CDA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving CDA is billing the initial CDA 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 CDA may bill (i.e., the receiving CDA may bill for the lesser of 80 percent of the initial CDA's prorated ongoing administrative fee or 100 percent of the receiving CDA's ongoing administrative fee).

If both CDAs agree, the CDAs may negotiate a different amount of reimbursement.

CDA Policy

Unless the CDA negotiates a different amount of reimbursement with the initial CDA, the CDA will bill the initial CDA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving CDA intends to administer the family's voucher, the receiving CDA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be received no later than 90 days following the expiration date of the family's voucher issued by the initial CDA [Notice PIH 2016-09]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving CDA must be attached to the initial billing notice. The receiving CDA may send these documents by mail, fax, or email.

CDA Policy

The CDA will send its initial billing notice by fax or email, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving CDA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless (a) the initial CDA is willing to accept the late submission or (b) HUD requires

the initial CDA to honor the late submission (e.g., because the receiving CDA is over-leased) [Notice PIH 2016-09].

Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]

Annual Reexamination. The receiving CDA must send the initial CDA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving CDA is billing the initial CDA on behalf of the family, regardless of whether there is a change in the billing amount.

CDA Policy

The CDA will send a copy of the updated HUD-50058 by regular mail no later than 10 business days after the effective date of the reexamination.

Change in Billing Amount. The CDA, as receiving CDA, is required to notify the initial CDA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial CDA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving CDA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial CDA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial CDA will offset future monthly payments until the difference is reconciled.

Late Payments [Notice PIH 2016-09]

If the initial CDA fails to make a monthly payment for a portable family by the fifth business day of the month, the CDA must promptly notify the initial CDA 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 CDA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving CDA. If the initial CDA fails to correct the problem by the second month following the notification, the CDA, as receiving CDA, may request by memorandum to the director of the OPH with jurisdiction over the receiving CDA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the CDAs on the matter must be attached. The receiving CDA must send a copy of the memorandum to the initial CDA. If the CDA decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial CDA is still responsible for any outstanding payments due to the receiving CDA.

Overpayments [Notice PIH 2016-09]

In all cases where the receiving CDA has received billing payments for billing arrangements no longer in effect, the receiving CDA is responsible for returning the full amount of the overpayment (including the

portion provided for administrative fees) to the initial CDA.

If HUD determines billing payments have continued for at least three months because the receiving CDA failed to notify the initial CDA that the billing arrangement was terminated, the receiving CDA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial CDA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving CDA of the date and the amount of reimbursement to the initial CDA.

At HUD's discretion, the receiving CDA will be subject to the sanctions spelled out in Notice PIH 2016-09.

Denial or Termination of Assistance

At any time, the receiving CDA may decide 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 CDA should provide adequate notice of the effective date to the initial CDA to avoid having to return a payment. In no event should the receiving CDA fail to notify the initial CDA later than 10 business days following the effective date of the termination of the billing arrangement [HUD-52665; Notice PIH 2016-09].

CDA Policy

If the CDA elects to deny or terminate assistance for a portable family, the CDA will notify the initial CDA within 10 business days after the informal review or hearing if the denial or termination is upheld. The CDA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The CDA will furnish the initial CDA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving CDA may absorb an incoming portable family into its own program when the CDA executes a HAP contract on behalf of the family or at any time thereafter providing that the CDA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2016-09].

If the receiving CDA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving CDA [24 CFR 982.201(b)(2)(vii)].

If the receiving CDA absorbs a family after providing assistance for the family under a billing arrangement with the initial CDA, the receiving CDA must send an updated form HUD-52665 to the initial CDA no later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2016-09]

CDA Policy

The CDA will generally not absorb families under portability into its program if there are eligible applicants on its waiting list for assistance. If the CDA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the CDA will notify the initial CDA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the CDA decides to absorb a family after that, it will provide the initial CDA with 30 days' advance notice, but no later than 10 business days following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving CDA's voucher program [24 CFR 982.355(d)], and the receiving CDA becomes the initial CDA in any subsequent moves by the family under portability [24 CFR 982.355(e)(4)].

CHAPTER 11.A.

REEXAMINATIONS

INTRODUCTION

The CDA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and CDA 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.

Part IV: Non-Interim Reexamination Transaction. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

The CDA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

Unlike when performing an interim reexamination or at intake, at annual reexamination, the CDA must determine the income of the family for the previous 12-month period, except where the CDA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. The CDA also has the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the CDA's policies related to streamlined income determinations and the use of safe harbor income verifications.

11-I.B. STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b); New HCV GB, Reexaminations]

HUD permits the CDA to streamline the income determination process for family members with fixed

sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the CDA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The CDA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the CDA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the CDA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90-percent of its income from fixed sources, the CDA may streamline the verification of fixed income and must verify non-fixed income annually.

CDA Policy

The CDA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The CDA will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the CDA will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the CDA will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

The CDA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

CDA Policy

The CDA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the CDA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

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, the CDA will perform a new annual reexamination.

The CDA 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 CDA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the CDA. However, the CDA should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

CDA Policy

The CDA will conduct annual recertifications through an online process.

Families will participate in the annual recertification process through an online portal.

The application package will include forms for the family to complete and instructions on what documents must be provided to the CDA to complete the annual recertification process.

If the family fails to complete the application package, the family will be provided with a second opportunity to complete this process. If the family fails to return the application package and the necessary documents required for recertification by the required deadline, the CDA will send a notice a termination of assistance.

11-I.D. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the CDA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

CDA Policy

Families will be asked to provide all required information (as described in the reexamination notice) at the in-person reexamination appointment or returned to the CDA office. The required information will include a CDA-designated reexamination application form, and Applicant Tenant Certification, and Statement of Responsibilities as well as supporting documents or forms 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 10 business days of the interview. The CDA will attempt to collect this information from the participant two times. If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations the CDA ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

CDA Policy

At the annual reexamination, the CDA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The CDA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the CDA proposes to terminate assistance based on lifetime sex offender registration information, the CDA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the CDA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS) (see Chapter 8), the CDA must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the CDA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established 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 their parents or is considered a *vulnerable youth* in accordance with CDA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

CDA Policy

During the annual reexamination process, the CDA 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 their parents or is considered a *vulnerable* youth based on the policies in Sections 3-II. E and 7-II. E, the parents' income will not be reviewed.

If the student is no longer income eligible based on their own income or the income of their 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 their own income and the income of their parents (if applicable), the CDA will process a reexamination in accordance with the policies in this chapter.

11-I.F. EFFECTIVE DATES

The CDA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

CDA 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 the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the CDA 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 the CDA, but 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 CDA 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 the CDA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are caused by the family if the family fails to provide information requested by the CDA by the date specified, and this delay prevents the CDA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and CDA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the CDA must process interim reexaminations to reflect those changes. HUD regulations

also permit the CDA 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, p. 12-10].

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 change. The CDA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and CDA policies describing what changes families are required to report, what changes families may choose to report, and how the CDA will process both CDA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The family is required to report all changes in family composition. The CDA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition. However, due to family obligations under the program, the CDA has limited discretion in this area.

CDA Policy

The CDA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring CDA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require CDA approval. However, the family is required to promptly notify the CDA of the addition [24 CFR 982.551(h)(2)].

CDA Policy

The family must inform the CDA of the birth, adoption, or court-awarded custody of a child within 30 calendar days. The family must disclose and provide documentation of the child's SSN within 90 days of birth or custody award.

New Family and Household Members Requiring Approval

Except for children who join the family as a result of birth, adoption, or court-awarded custody, a family must request CDA approval to add a new family member [24 CFR 982.551(h)(2)] or another household member (live-in aide or foster child) [24 CFR 982.551(h)(4)]. Generally, additions to a household, where the voucher size will change, will not be approved. In certain circumstances, the addition may be approved, and the family maintains the same size voucher.

Although the CDA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that CDAs conduct a reexamination of income whenever a new family member is added. The CDA may state in policy that income reexamination will be conducted.

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the CDA must issue the family a new voucher, and the family and CDA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the CDA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

CDA Policy

Families must request CDA approval to add a new family member, live-in aide, foster child, or

foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 15 days within a 12-month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the CDA *prior* to the individual moving into the unit.

Requests to add children as family members who require CDA approval will be reviewed on a case-by-case basis. The CDA will consider the stability and longevity of the situation.

CDA approval will be contingent on the availability of funds to serve a larger household.

The CDA will not approve the addition of a new family or household member unless the individual meets the CDA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The CDA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the CDA determines an individual meets the CDA's eligibility criteria and documentation requirements, the CDA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the CDA determines that an individual does not meet the CDA's eligibility criteria or documentation requirements, the CDA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The CDA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the CDA, in writing, if any household member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the CDA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The CDA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

CDA Policy

If a household member ceases to reside in the unit, the family must inform the CDA in writing within 30 calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the CDA 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 CDA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

CDA-Initiated Interim Reexaminations

CDA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the CDA. They are not scheduled because of changes reported by the family.

CDA Policy

The CDA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the CDA will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.
- If the family has reported zero income, the CDA will conduct an interim reexamination every 3 months if the family continues to report that they have no income.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g., seasonal, or cyclic income), the CDA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- The CDA 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

The CDA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

HUD regulations give the CDA the freedom to determine the circumstances under which families will be required to report changes affecting income.

CDA Policy

Families are required to report, in writing, all increases in income within 30 calendar days of the date the change takes effect. Regarding employment income, the date of the change is the hire date, promotion date, or date notified of raise or increase of hours. Regarding a change in deduction, the date of change is the date that the household no longer pays the deduction, (i.e., the date childcare or medical premium payment stops). The CDA will conduct an interim reexamination to recalculate the new family share of rent and new subsidy amount when gross family income has increased by more than $500 per month or any increase amount for families previously paying minimum rent.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The CDA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

CDA Policy

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the CDA will conduct an interim reexamination. See Section 11-II. D for effective dates.

Families may report changes in income or expenses at any time.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

CDA Policy

The family must notify the CDA of changes in writing.

Based on the type of change reported, the CDA will determine the type of documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the CDA. This time frame may be extended for good cause with CDA approval. The CDA will accept required documentation by mail, by fax, email, or in person.

Effective Dates

The CDA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

CDA Policy

If the family share of the rent is to *increase*:

The increase generally will 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 on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will generally be effective on the 1st of the month following 30 plus 1 days from the date the change was reported to the CDA.

For example:

- Change occurs December 15th, reported January 1, decrease effective March 1.
- Change on April 10th, reported April 20th, decrease effective June 1st.

If, however, the decrease is reported prior to the date the actual change occurs, the CDA will adjust the rent the 1st of the month following 30 plus 1 days after the actual date of change.

For example:

- Anticipated change is reported May 15th, actual change occurs June 10th, decrease effective, August 1st.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the CDA must

recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

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 CDA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the CDA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the CDA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has *increased,* the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has *decreased*, during the term of a HAP contract, the CDA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the CDA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the CDA's policy on decreases in the payment standard).
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the CDA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the CDA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the CDA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the CDA must use the CDA current utility allowance schedule [HCV GB p. 18-8].

CDA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The CDA 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, p. 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
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the CDA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

CDA 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 CDA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the CDA may discover errors made by the CDA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 14.

Chapter 11.B.

REEXAMINATIONS UNDER HOTMA 102/104

INTRODUCTION

This chapter is applicable upon the CDA's HOTMA 102/104 compliance date. Prior to this date, the CDA will follow policies as outlined in Chapter 11.A. of the model policy.

The CDA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and CDA 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.
>
> Part IV: Non-Interim Reexamination Transaction. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

The CDA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

Unlike when performing an interim reexamination or at intake, at annual reexamination, the CDA must determine the income of the family for the previous 12-month period, except where the CDA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. CDAs also have the option of using a Safe Harbor income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the CDA's policies related to streamlined income determinations and the use of Safe Harbor income verifications.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The CDA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

CDA Policy

The CDA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the CDA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

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, the CDA will perform a new annual reexamination.

The CDA 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 CDA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the CDA. However, CDAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

CDA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the CDA to request a reasonable accommodation (see Chapter 2).

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, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the CDA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the CDA will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without CDA approval, or 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, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the CDA must execute a certification attesting to the role and the assistance provided by any such third party.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the CDA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

CDA Policy

Families will be asked to provide all required information (as described in the reexamination notice) at the in-person reexamination appointment or returned to the CDA office. The required information will include a CDA-designated reexamination application form, and Applicant Tenant Certification, and Statement of Responsibilities as well as supporting documents or forms 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 10 business days of the interview. The CDA will attempt to collect this information from the participant two times. If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations CDAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

CDA Policy

At the annual reexamination, the CDA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The CDA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant

If the CDA proposes to terminate assistance based on lifetime sex offender registration information, the CDA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the CDA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to space standards (see Chapter 8), the CDA must issue the family a new voucher, and the family and CDA must try to find an acceptable

unit as soon as possible. If an acceptable unit is available for rental by the family, the CDA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established 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 their parents or is considered a *vulnerable youth* in accordance with CDA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

CDA Policy

During the annual reexamination process, the CDA 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 their parents or is considered a *vulnerable* youth based on the policies in Sections 3-II. E and 7-II. E, the parents' income will not be reviewed.

If the student is no longer income eligible based on their own income or the income of their 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 their own income and the income of their parents (if applicable), the CDA will process a reexamination in accordance with the policies in this chapter.

11-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

The CDA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the CDA uses a streamlined income determination as indicated in Chapter 7 of this policy. The CDA may also use Safe Harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with CDA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The CDA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for CDA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The CDA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD–50058; and
- The amount of prior-year income reported by the family on the CDA's annual reexamination paperwork.

Step 2: The CDA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed within the last reexamination cycle and there are no additional changes, the CDA must use the annual income from the interim to determine the family's total annual income. The CDA may use verification obtained from the interim for this step.
- If the CDA did not perform an interim or there have been changes since the last reexamination, the CDA moves to Step 3.

Step 3: If there were changes in annual income not processed by the CDA since the last reexamination, the CDA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the CDA may use documentation of prior-year income to calculate the annual income. For example, the CDA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the CDA, for example:
  - Year-end statements
  - Paystub with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the CDA notes discrepancies between EIV and what the family reports, the CDA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 11-1 provides detailed examples of how the CDA calculates income from different sources at annual reexamination using the above method.

CDA Policy
When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with CDA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the CDA or other agency's determination of income or the CDA has other reason to use third-party verification in these circumstances, then the above will apply.

11-I.F. EFFECTIVE DATES

The CDA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516]. 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.

CDA Policy
If the family share of the rent is to *increase*:

The increase generally will 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 hard the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will generally be effective the 1st of the month following 30 plus 1 days from the date the change was reported to the CDA.

For example:

1. Change occurs on December 15th, reported January 1, decrease effective March 1.
2. Change occurs on April 10th, reported April 20th, decrease effective June 1st.

If, however, the decrease is reported prior to the date the actual change occurs, the CDA will adjust the rent the 1st of the month following 30 plus 1 day after the actual date of change.

For example:

1. Anticipated change is reported May 15th, actual change occurs June 10th, decrease effective August 1st.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the CDA by the date specified, and this delay prevents the CDA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516; Notice PIH 2023-27]

11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and CDA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the CDA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The CDA must conduct any interim reexamination within a reasonable period of time after the family request or when the CDA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the CDA generally should conduct the interim reexamination not longer than 30 days after the CDA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the CDA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

CDAs must require families to report household composition changes; however, CDAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The CDA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)].

CDA Policy

The family must inform the CDA of the birth, adoption, or court-awarded custody of a child within 30 calendar days. The family must disclose and provide documentation of the child's SSN within 90 days of birth or custody award.

New Family Members Not Requiring CDA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require CDA approval. However, the family is required to promptly notify the CDA of the addition [24 CFR 982.551(h)(2)].

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request CDA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

Although the CDA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that CDAs conduct a reexamination of income whenever a new family member is added. The CDA may state in policy that an income reexamination will be conducted.

If a change in family size causes a violation of space standards (see Chapter 8), the CDA must issue the family a new voucher, and the family and CDA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the CDA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

CDA Policy

Families must request CDA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 15 days within a 12-month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the CDA *prior* to the individual moving into the unit.

Requests to add children as family members who require CDA approval will be reviewed on a case-by-case basis. The CDA will consider the stability and longevity of the situation.

CDA approval will be contingent on the availability of funds to serve a larger household.

The CDA will not approve the addition of a new family or household member unless the individual meets the CDA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The CDA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the CDA determines an individual meets the CDA's eligibility criteria and documentation requirements, the CDA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the CDA determines that an individual does not meet the CDA's eligibility criteria or documentation requirements, the CDA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The CDA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the CDA if any household member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the CDA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The CDA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

CDA Policy

If a household member ceases to reside in the unit, the family must inform the CDA in writing within 30 calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

Changes in Family Unit Size (Voucher Size) [24 CFR 982.505(c)(6)]

Changes effective 12/2/24 and earlier: 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.

Changes effective 12/3/24 and later: 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 may be used to determine the payment standard immediately or at the family's first regular reexamination

following the change in family unit size.

CDA Policy

If the family unit size (voucher size) changes during the term of a HAP contract, the new family unit size will be used to determine the payment standard at the family's first regular reexamination following the change in family unit size.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Overview

Interim reexaminations for changes in income or expenses may be scheduled either because the CDA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The CDA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the CDA may decline to conduct an interim reexamination if the CDA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The CDA may set a lower threshold in CDA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the CDA from setting a dollar-figure threshold.

However, while the CDA has some discretion, HUD requires that the CDA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the CDA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then CDA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

CDA-Initiated Interim Reexaminations

CDA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the CDA. They are not scheduled because of changes reported by the family.

CDA Policy

The CDA will conduct interim reexaminations in each of the following instances:

- If the family has reported zero income, the CDA will conduct an interim reexamination every 3 months if the family continues to report that they have no income.

- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g., seasonal, or cyclic income), the CDA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- The CDA 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

The CDA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

HUD regulations give the CDA the freedom to determine the circumstances under which families will be required to report changes affecting income.

CDA Policy

Families are required to report, in writing, all increases in income within 30 calendar days of the date the change takes effect. Regarding employment income, the date of the change is the hire date, promotion date, or date notified of raise or increase of hours. Regarding a change in deduction, the date of change is the date that the household no longer pays the deduction, (i.e., the date childcare or medical premium payment stops). The CDA will conduct an interim reexamination to recalculate the new family share of rent and new subsidy amount when gross family income has increased by more than $500 per month or any increase amount for families previously paying minimum rent.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The CDA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

CDA Policy

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the CDA will conduct an interim reexamination. See Section 11-II. D for effective dates.

Families may report changes in income or expenses at any time.

Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

The CDA must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater
The CDA must conduct an interim reexamination of family income when the CDA becomes aware that the family's adjusted income has changed by an amount that the CDA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- The CDA may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- The CDA may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, the CDA has the discretion whether to consider a subsequent increase in earned income.

CDA Policy
The CDA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]
When the family reports an increase in both earned and unearned income at the same time, the CDA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The CDA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the CDA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the CDA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the CDA would refer to CDA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]
A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the CDA must conduct an interim reexamination in accordance with CDA policy.

Family Reporting
The CDA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)].

The CDA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the CDA may establish policies requiring that families report all changes in income and household composition, and the CDA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the CDA determines that an interim reexamination of income is necessary, they must ask the family

to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

CDA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the CDA of changes either orally or in writing, including email. If the family provides oral notice, the CDA may also require the family to submit the changes in writing, including email.

The CDA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the CDA will note the information in the tenant file but will not conduct an interim reexamination. The CDA will send the family written notification (which may be emailed) of making this determination informing the family that the CDA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the CDA will determine the documentation the family will be required to submit based on the type of change reported and CDA policies in Chapter 7. The CDA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 14 business days of receiving a request from the CDA. This time frame may be extended for good cause with CDA approval. The CDA will accept required documentation by mail, email, or in person. The CDA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the CDA determines that an interview is warranted, the family may be required to attend.

11-II.D. EFFECTIVE DATES [24 CFR 982.516(e) and Notice 2023-27]

Changes Reported Timely [Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with CDA policies:

- For rent increases, the CDA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely [Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with CDA policies:

- For rent increases, the CDA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the CDA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the CDA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. The CDA may choose to establish conditions or requirements for when such a retroactive application would apply. If the CDA chooses to adopt such policies, it must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the CDA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

CDA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the CDA will apply the decrease the first of the month following completion of the interim reexamination.

However, the CDA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to CDA management operations. The CDA will decide to apply decreases retroactively on a case-by-case basis.

When the CDA applies the results of interim increases retroactively, the CDA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with CDA policies.

The CDA will also clearly communicate the effect of the retroactive adjustment to the owner.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the CDA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the CDA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505 and FR Notice 5/7/24]

The family share of the rent and HAP calculations must use the correct payment standard for the family,

taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard when the CDA changes its payment standard or when there is a change in family composition.

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 CDA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family immediately or at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]
The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the CDA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.
When there are changes in the utility arrangement with the owner, the CDA must use the utility allowances in effect at the time the new lease and HAP contract are executed.
At reexamination, the CDA must use the CDA's current utility allowance schedule [HCV GB, p. 18-8].

CDA Policy
Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The CDA 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, p. 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
- The amount and effective date of the new tenant rent to owner
- The family must be given an opportunity for an informal hearing regarding the CDA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

CDA 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 will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the CDA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the CDA may discover errors made by the CDA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 14.

PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [Notice PIH 2023-27]

Families may experience changes within the household that do not trigger an interim reexamination under CDA policy and HUD regulations, but which HUD still requires the CDA to report to HUD via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, the CDA will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the childcare expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number;
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s); and
- Rent increases

CDAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

Exhibit 11-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the CDA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.
Last reexamination – 3/1/2023 Annual Reexamination
Ruby: Wages: $30,000 — Georgia: SSI: $10,980 ($915 monthly)

The EIV report pulled on 12/15/2023

Ruby:
Wages Total: $33,651
Quarter 3 of 2023: $8,859 (City Public School)
Quarter 2 of 2023: $8,616 (City Public School)
Quarter 1 of 2023: $8,823 (City Public School)
Quarter 4 of 2022: $7,353 (City Public School)

Georgia:
SSI Total: $10,980
2023 benefit $915 monthly

Income Reported on Reexamination Application	
Ruby: Wages at City Public School: $32,000 (switched jobs but no permanent change to amount)	Georgia: SSI benefits: $10,980 (no changes)
Calculating Ruby's wages: Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: $33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the $33,651 of wages in EIV is accurate and reflects her current annual income, so the CDA will use $33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.	Calculating Georgia's SSI benefit: Step 1: Determine the prior annual income from EIV (i.e., $915 x 12 months: $10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The CDA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: $64.05 ($915 x 0.07) New gross SSI benefit: $11,748.60 ($979.05 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the CDA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.	
Summary of Annual Income (as reported on the HUD-50058)	
Ruby (Head of Household): Other Wage: $33,651 Myers Family Total Annual Income: $45,399	Georgia (Other Youth Under 18): SSI: $11,748

Example 2: Calculating Annual Income at Annual Reexamination Using EIV: Family Disagrees with EIV

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from $28,000 to $7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.
5/1/2023 Annual Reexamination
Wages: $28,000

The EIV report pulled on 1/15/2024

Wages Total: $18,271
Quarter 3 of 2023: $2,500 (Viking Bakery)
Quarter 3 of 2023: $796 (Sweet Tooth Candy Bar)
Quarter 2 of 2023: $1,300 (Sasha's Sweets)
Quarter 2 of 2023: $584 (Larry's Concessions)
Quarter 2 of 2023: $2,401 (Viking Bakery)
Quarter 1 of 2023: $6,500 (Sasha's Sweets)
Quarter 4 of 2022: $600 (Sasha's Sweets)
SS/SSI: No history of benefits

Income Reported on Reexamination Application
Wages: $0 (permanent change; no longer receiving) Social Security: $14,400 ($1,200 monthly) Paul certified on the CDA's annual reexamination paperwork that he does not agree with the annual wages of $18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of $1,200 effective 3/1/2024.
Calculating Wages and SS Benefit
Step 1: Determine prior annual income taking into consideration the 7/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: $18,271) Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to $7,500. Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all. Process the annual reexamination effective 5/1/2024 using annual SS income of $14,400 and $0 wages.
Summary of Annual Income (as reported on the HUD-50058)
Paul (Head of Household): $14,400 (SS) Hewson Family Total Annual Income: $14,400

Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from $200 to $100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the CDA did not establish a lower threshold. Samantha did not report any additional changes to the CDA.	
Last reexamination – 11/1/2023 Annual Reexamination	
Samantha: Business income: $28,000 VA disability pension: $12,000 Child support: $2,400	Fergus: Wages: $8,250 Other non-wage income: $3,000 (Go Fund Me online fundraiser)

The EIV report pulled on 9/16/2024

Samantha:
Wages Total: $0 (no wage data reported since Q1 2023)

Fergus:
Wages Total: $8,600
Quarter 1 of 2024: $2,100 (Ian's Fish 'n' Chips)
Quarter 1 of 2024: $500 (Claire's Healthcare Supplies)
Quarter 4 of 2023: $1,000 (Claire's Healthcare Supplies)
Quarter 3 of 2023: $1,800 (The Onion Garden Shop)
Quarter 2 of 2023: $3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application	
Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on CDA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the CDA for the 11/1/2024 annual reexamination.	
Samantha: Business income: $28,750 (last year); has decreased to $18,000 (permanent change) VA disability benefit: $12,000 (last year); has increased to $12,300 (permanent change) Child support: $2,400 (last year); has decreased to $1,200 (permanent change)	Fergus: Wages: $6,000

Calculating Samantha's Net Business Income
Step 1: Determine prior annual net business income (i.e., $28,000 on last HUD–50058). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to $18,000. The CDA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is $18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.
Calculating Samantha's VA Pension Income
Step 1: Determine prior annual VA pension income (i.e., $12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was $1,000). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. Step 3: The CDA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of $1,025, or $12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 ($12,300 in this example).
Calculating Samantha's Child Support Income
Step 1: Determine prior annual child support income (i.e., $2,400 on the last HUD–50058). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from $200 to $100 monthly, but the change was not processed because it did not meet the threshold. Step 3: The family reported changes, so the CDA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular $100 monthly child supports payments beginning 3/1/2024

through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 ($1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: $8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the CDA must verify and adjust to reflect current annual income from wages. Fergus reported $6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The CDA projected annual income of $7,800 based on the two paystubs for this employer, and EIV shows $8,600 earned in the most recent four quarters in EIV. To complete Step 3, the CDA must do the following:

- Resolve the discrepancy between EIV wages, the $6,000 annual income Fergus reported, and the $7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The CDA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of $9,000. The CDA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn $9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 ($9,360 in this example).

<table>
<tr><td colspan="2">Calculating Fergus' Other Non-Wage Income
Step 1: Determine prior annual income from other non-wage income (i.e., $3,000 on the last HUD– 50058).
Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.
Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The CDA must verify and adjust to reflect current non-wage income. The CDA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of $0 determined in Step 3.</td></tr>
<tr><td colspan="2">Summary of Annual Income (as reported on the HUD-50058)</td></tr>
<tr><td>Samantha (Head of Household):
Own business: $18,000
Pension: $12,300
Child support: $1,200</td><td>Fergus (Co-head):
Wages: $9,360</td></tr>
<tr><td colspan="2">Poole Family Total Annual Income: $40,860</td></tr>
</table>

CHAPTER 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a CDA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the CDA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the CDA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the CDA may consider in lieu of termination, the criteria the CDA will use when deciding what action to take and the steps the CDA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the CDA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the CDA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program or terminate their HCV assistance at any time by notifying the CDA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the CDA is reduced to zero, the family's assistance automatically terminates 180 days after the last HAP payment.

CDA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the CDA of the change and request an interim reexamination *before* the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the CDA terminate housing assistance payments on behalf of the family at any time.

CDA Policy

The request to terminate assistance should be made in writing and signed by all adult household members. Before terminating the family's assistance, the CDA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the CDA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)] The CDA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II. E, incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

CDA Policy

- A family will be considered *evicted* if the family moves after the issuance of the Writ of Recovery or the Court has ordered that Writ of Recovery may be issued, whether physical enforcement of the order was necessary.
- If a family moves after the owner has given the family a lease termination notice for serious or repeated lease violations but before the issuance of the Writ of Recovery or before the Court has ordered that a Writ of Recovery may be issued, termination of assistance is not mandatory. In such cases the CDA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision the CDA will consider the factors as described in sections 12-II. D and 12-II.E. Upon consideration of such factors, the CDA may, on a case-by-case basis, choose not to terminate assistance.
- Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, utilities or other fees, disturbance of neighbors, unauthorized guests, destruction of property, living or housekeeping habits that cause damage to the unit or premises and criminal activity.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The CDA must terminate assistance if any family member fails to sign and submit any consent form, they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

Upon the CDA's HOTMA 102/104 compliance date, the below section on failure to provide consent is added:

CDA Policy

The CDA will also terminate assistance if the family revokes consent for the CDA to collect information from financial institutions.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The CDA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the CDA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizen household members approved by the CDA and where the family's assistance has

been prorated as a mixed family. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]

The CDA must terminate assistance if a participant family fails to disclose the complete and accurate social security number of each household member and the documentation necessary to verify each social security number.

If the family; however, is otherwise eligible for continued program assistance, and the CDA 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 CDA 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 CDA determined the family to be noncompliant.

CDA Policy

The CDA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The CDA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should the CDA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 23, 2001, the CDA must immediately terminate assistance for the household member.

In this situation, the CDA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the CDA 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 their parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the CDA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and CDA policies or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member 24 CFR 982.311(d), Notice PIH 2010-9]

The CDA must immediately terminate program assistance for deceased single member households.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the CDA to establish policies that permit the CDA to terminate assistance if the CDA determines that:

- Any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity.
- Any household member has violated the family's obligation not to engage in violent criminal activity.

Use of Illegal Drugs and Alcohol Abuse

CDA Policy

- The CDA will terminate a family's assistance if any household member is currently engaged in any illegal use and/or possession 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.
- The CDA will terminate assistance if any household member's abuse or have a pattern of abuse of alcohol which 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.

The CDA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record, or records, of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the CDA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II. D and 12-II. E. Upon consideration of such alternatives and factors, the CDA 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.

CDA Policy

- The CDA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.
- The CDA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members or household guests related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.
- A record, or records, of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.
- In making its decision to terminate assistance, the CDA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II. D and 12-II. E. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c24 CFR 5.2005 (c); 24 CFR 984.101(d)]

HUD permits the CDA to terminate assistance under several other circumstances. It is left to the discretion of the CDA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II E, the Violence against Women Act explicitly prohibits the CDA from considering incidents of, or criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per 24 CFR 984.101(d), the CDA is no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self Sufficiency (FSS) contract of participation.

CDA Policy

The CDA will terminate a family's assistance if:

- The family and/or its guests have failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related CDA policies.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal or CDA-operated housing program.

- The family currently owes rent or other amounts to any CDA in connection with Section 8 or public housing assistance under the 1937 Act.
- The family has not reimbursed any CDA for amounts the CDA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the CDA. The CDA, at its discretion, may offer a family the opportunity to enter into an agreement to pay amounts owed to the CDA as an alternate to termination. The CDA may prescribe the terms of the agreement.
- The family has failed to provide proper 60 + 1 day notice to both the CDA and the owner prior to moving from an assisted unit or terminating the lease.
- The family has failed to attend an annual reexamination, inspection, or other pre-scheduled appointment.
- The family has committed serious or repeated violations of the lease.
- The family has a member who becomes or is subject to a lifetime registration requirement under a state sex offender registration program.
- A family member or a guest has engaged in or threatened violent or abusive behavior toward CDA personnel.
    - *Abusive or violent behavior towards CDA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
    - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the CDA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II. D and 12-II. E. Upon consideration of such alternatives and factors, the CDA may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The CDA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

CDA Policy

Except as a reasonable accommodation to a disability, no family (any member) may be absent from the unit for more than 30 consecutive days. If the family (any member) is absent from the unit for more than 30 consecutive calendar days, the family's assistance may be terminated. Notice of termination will be sent in accordance with Section 12-II.F. A reasonable accommodation for a person with a disability may be requested for an exception to this policy.

When requesting a reasonable accommodation to a disability a written request should be submitted

to the CDA at a minimum of 30 days prior to the absence when absence is planned.

To obtain CDA approval, the family must:

3. Satisfy notice requirements;
4. Provide documentation acceptable to the CDA regarding the length of absence and the reason for the absence;
5. Affirm their intent to return to the unit at the end of the leave period;
6. Agree to be responsible for receiving and responding to all notices sent by the CDA to the unit during periods of absence;
7. Pay rent to the owner and pay for utilities while they are absent, and
8. Make arrangements for the unit to be available for CDA inspections as necessary.

In some instances, it may be reasonable to consider an absence greater than 30 days, for a household member that is not disabled. These requests will require the following:

- Approval prior to the absence;
- Household income will not be adjusted as a result of the temporary absence;
- If during the absence the HUD-mandated annual reexamination is due, and the absent member is an adult, they will be removed to allow the CDA to complete this program requirement. If this removal results in a change to the voucher size, the household will be notified about this change.

If these procedures are not followed, the unit will be considered abandoned and the CDA will terminate housing assistance payments and the family's participation in the program.

Upon the CDA's HOTMA 102/104 compliance date, the below section on the asset limitation is added:

Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]

The CDA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The CDA may adopt a written policy of total non-enforcement, enforcement, or limited enforcement as well as adopting exception policies.

CDA Policy

The CDA has adopted a policy of total nonenforcement of the asset limitation for all program participants. The asset limitation only applies to initial eligibility determinations for new admissions to the CDA's HCV program.

Insufficient Funding [24 CFR 982.454]

The CDA may terminate HAP contracts if the CDA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program. The CDA must identify in the administrative plan, in the event of insufficient funding, taking into account any cost savings measures taken by the CDA, a description of factors the CDA will consider when determining which HAP contracts to terminate first [24 CFR 982.54(d)(26)].

The CDA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the CDA determines there is a shortage of funding, prior to terminating any HAP contracts, the CDA will determine if any other actions can be taken to reduce program costs.

In the event that the CDA decides to stop issuing vouchers as a result of a funding shortfall, and the CDA

is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and Family Unification Program (FUP) families), when the CDA resumes issuing vouchers, the CDA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose voucher, when applicable.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the CDA will terminate the HAP contract as a last resort.

Prior to terminating any HAP contracts, the CDA will inform the local HUD field office. The CDA will terminate the minimum number needed in order to reduce HAP costs to a level within the CDA's annual budget authority.

Terminating HAP Contracts

CDA Policy

If the CDA must terminate HAP contracts due to insufficient funding, the CDA will do so in accordance with the following criteria and instructions:

Families who have been assisted in the HCV program the longest will be the first to be terminated, excluding families that include elderly or disabled family members.

Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and Family Unification Program (FUP) will be the last to be terminated.

The CDA will terminate HAP contracts starting with Category 1 families. The CDA will only move to the next category when there are no families remaining in the current category and more HAP contract terminations are necessary.

CATEGORY 1:

FAMILIES WHO HAVE COMMITTED PROGRAM FRAUD OR ABUSE WITHIN THE PAST 6 MONTHS.

Within each group below, the CDA will terminate HAP contracts according to the date the CDA first notified the family of the debt, starting with the most recent. If more than one family received notice on the same day, the CDA will rank the notices for that date using a random method.

- First, the CDA will terminate families who owe the CDA money but are not yet under repayment agreement.
- Second, the CDA will terminate families who owe the CDA money, are under repayment agreement, but have made at least one late payment.
- Third, the CDA will terminate families who owe the CDA money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.
- Fourth, the CDA will terminate families who are under a compliance agreement.

CATEGORY 2:

FAMILIES WHO COMMITTED PROGRAM FRAUD OR ABUSE 6-12 MONTHS AGO.

Reinstating HAP Contracts

CDA Policy

If the CDA terms a HAP contract, the family will be added to the waiting list with insufficient funding preference status as of the date and time their assistance was ended. When the CDA has sufficient funding to reinstate assistance, households will be selected from the waiting list in the order of their placement.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The CDA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the CDA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the CDA may choose to take when it has discretion and outlines the criteria the CDA will use to make its decision about whether to terminate assistance. It also specifies the requirements for the notification to the family of the CDA's intent to terminate assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

Termination of assistance for a participant may include any or all the following:

Terminating housing assistance payments under a current HAP contract,

Refusing to enter into a new HAP contract or approve a lease, or

Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the CDA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

CDA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member or guest 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 or guest's current address upon CDA request.

Repayment of Family Debts

CDA Policy

If a family owes amounts to the CDA, as a condition of continued assistance, the CDA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the CDA of the amount owed. See Chapter 16 for policies on repayment agreements.

Compliance Agreements

CDA Policy

If a family is being considered for termination under "Other Authorized Reasons for Termination of Assistance" and the actions or non-actions by the family are deemed as non-egregious, the CDA

may require the family to enter into a compliance agreement as a condition of continued assistance.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the CDA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

CDA Policy

The CDA 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 shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs the CDA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes CDA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a CDA's use of records to terminate assistance for participants. While a CDA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, CDAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars the CDA from using non-federal sources to conduct criminal background checks of program participants.

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

The CDA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

CDA Policy

The CDA will consider the following facts and circumstances when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property.
- The effects that the termination of assistance may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in

section 12-II. E) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

- The length of time since the violation occurred, including the age of the individual at the time of the conducts, as well as the family's recent history and the likelihood of favorable conduct in the future.
- While a record, or records, of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant engaged in disqualifying criminal activity. As part of its investigation, the CDA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The CDA may also consider:
    - Any statements made by witnesses, or the participant not included in the police report.
    - Whether criminal charges were filed.
    - Whether, if filed, criminal charges were abandoned, dismissed, or not prosecuted, or ultimately resulted in an acquittal.
    - Any other evidence relevant to determining whether the participant engaged in disqualifying activity.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- The CDA 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 a false certification was signed by the family. See Chapter 16-IV.B. Repayment Policy, Criminal Prosecution for Program Fraud/Abuse).

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

If the family includes a person with disabilities, the CDA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

CDA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the CDA will determine whether the behavior is related to the disability. If so, upon the family's request, the CDA will determine whether alternative measures are appropriate as a reasonable accommodation. The CDA 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, SEXUAL ASSAULT, STALKING OR HUMAN TRAFFICKING

This section describes the protections against termination of assistance that the Violence against Women

Act of (VAWA) provides for victims of domestic violence, dating violence, sexual assault, Stalking, and human trafficking. For general VAWA requirements, key VAWA definitions, and CDA 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.)

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

First, VAWA provides that a CDA 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 CDA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking 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, stalking, or human trafficking 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, sexual assault, stalking, or human trafficking [24 CFR 5.2005(c)(2)].

Fourth, it gives CDAs 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)].

The CDA and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a CDA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, stalking or human trafficking so long as the CDA does not subject the victim to a more demanding standard than it applies to other program

participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a CDA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the CDA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk.
- The nature and severity of the potential harm.
- The likelihood that the potential harm will occur.
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual or imminent threat, the CDA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a CDA 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)].

CDA Policy

In determining whether a participant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the CDA 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, stalking or human trafficking.
- Whether the threat is a physical danger beyond a speculative threat.
- Whether the threat is likely to happen within an imminent timeframe.
- 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.

If the participant wishes to contest the CDA's determination that they are an actual and imminent threat to other tenants or employees, the tenant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]

CDA Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, the CDA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX. D of this plan.

The CDA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the CDA

will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator [24 CFR 5.2005(c)]

Although VAWA provides protection against termination of assistance or victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the CDA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others…without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the CDA 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 CDA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [FR Notice 3/16/07].

If the perpetrator remains in the unit, the CDA continues to pay the owner until the CDA terminates the perpetrator from the program. The CDA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The CDA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the CDA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the CDA will provide them with 30 days to establish eligibility for another housing program prior to the termination of the HAP contract.

CDA Policy

- The CDA will terminate assistance to a family member if the CDA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.
- In making its decision, the CDA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the CDA by the victim in accordance with this section and section 16IXD. The CDA will also consider the factors in section 12-II.D. Upon such consideration, the CDA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.
- The remaining family members must agree that the family member whose assistance is being terminated pursuant to this policy will be excluded from the assisted unit and will not be permitted to return to the assisted unit for any purpose or at any time without prior approval of the CDA.
- If the CDA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

12-II.F. TERMINATION NOTICE

HUD regulations require CDAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

CDA Policy

Whenever a family's assistance will be terminated, the CDA will send a written notice of termination to the family and to the owner. The CDA will also send a form HUD-5382 and form HUD-5380to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other CDA policies, or the circumstances surrounding the termination require.

When the CDA notifies an owner that a family's assistance will be terminated, the CDA will, if appropriate, advise the owner of their right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the CDA sends to the family must meet the additional HUD and CDA notice requirements discussed in section 16-III.C of this plan. VAWA requires CDAs to provide notice of VAWA rights and the HUD 5382 form when a CDA terminates a household's housing benefits.

CDA Policy

Whenever the CDA decides to terminate a family's assistance because of the family's action or failure to act, the CDA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380. The CDA will request in writing that a family member wishing to claim protection under VAWA notify the CDA within 14 business days.

Still other notice requirements apply in two situations:

If a criminal record is the basis of a family's termination, the CDA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].

If immigration status is the basis of a family's termination, as discussed in section 12-I. D, the special notice requirements in section 16-III.D must be followed.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the CDA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005 (c) and Form HUD-52641-A, Tenancy Addendum,]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, and human trafficking and the victim is

protected from eviction by the Violence against Women Act (see section 12-II. E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the CDA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

However, in the case of criminal activity related to domestic violence, dating violence, sexual assault, stalking, human trafficking if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy. (See section 12-II. E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, stalking, or human trafficking and the tenant or affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit;
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant’s lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. See Section 13-II. G for a discussion of CDA policies relating to units in foreclosure.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the CDA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the CDA a copy of any eviction notice (see Chapter 5).

CDA Policy

If the eviction action is filed in court, the owner and the tenant must provide the CDA with documentation related to the eviction, including a copy of the Summons and Complaint in the court action, as soon as possible.

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 the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner’s failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;

- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner’s decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, stalking, or human trafficking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

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 CDA has no other grounds for termination of assistance, the CDA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: APPLICANT/TENANT CERTIFICATION AND STATEMENT OF TENANT OBLIGATIONS

- **Giving True and Complete Information**

I certify that the information given to the Dakota County Community Development Agency (CDA) on household composition, income, assets, and allowances is accurate and complete to the best of my knowledge and belief. I understand that after verification by the CDA, the information will be submitted to the U.S. Department of Housing and Urban Development. I have been given a copy of the Federal Privacy Act Statement for more information about its use.

I understand that I must supply any information that the CDA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.

- **Cooperation**

I understand that I am required to cooperate in supplying all information needed to determine my eligibility, level of benefits, or verify my true circumstances. Cooperation includes attending pre-scheduled appointments, completing, and signing needed forms, providing requested information in a timely manner, and disclosing and verifying the Social Security Numbers for all family members. I understand failure or refusal to cooperate will result in termination of assistance.

I understand if I enter into a compliance agreement or a repayment agreement with the CDA that I must comply with all provisions of the agreement, or my assistance will be terminated. I also understand that if I am not current on a repayment agreement with the CDA, my assistance will be terminated.

- **Reporting Changes to Household Size**

I certify that the members of my household, which I have listed on my application, are the only people that live/stay in my housing unit.

I understand that I must notify the CDA within 30 calendar days of any change in my household members including the birth, adoption or court awarded custody of a child.

I understand that I must request in writing and get prior approval from the CDA and my landlord before adding an additional household member as an occupant of the unit, including foster children, foster adults, and live-in aides. If an additional member is approved, my rent portion will be recalculated incorporating all household income.

I understand I must report in writing within 30 calendar days if any member moves out of my unit.

The request must be, at a minimum, 30 days prior to the date of departure. I understand that I can have visitors stay with me on a "temporary" basis, and I understand that "temporary" is no more than a total of 15 days in a 12-month period. I must obtain prior approval from the CDA if I plan to have someone stay with me for more than 15 days.

I understand that failure to report to the CDA all changes to my household members or to obtain prior approval to add a member will result in termination of my housing assistance.

- **Reporting Changes in Income**

I certify that I will notify the CDA in writing of all changes in my household income within 30 calendar days of the change. Once a change is reported to the CDA, the information will be verified and the CDA will notify me in writing of whether my rent portion will change.

I understand that:

a. Employment income must be reported within 30 calendar days of being hired, promoted, or receiving a raise.

b. My rent will be recalculated when there are changes in household members to reflect total household income.

c. If my household reports no income or minimal income resulting in a $50 tenant payment (TTP) and begins receiving any income or additional income, this must be reported and will automatically result in a rent increase.

d. If my household income decreases or my allowable expenses increase, I may be eligible for a reduction in my rent portion, when I report the change to the CDA.

I understand that if my income increases to a point where my portion equals the full rent, my assistance will terminate after 6 consecutive months of no assistance payments.

I understand that if I fail to report all increases in my household income, I will be required to pay back overpaid benefits due to untimely reporting or non-cooperation with information requests and that my housing assistance may be terminated.

- **Moving**

I understand that the CDA only approves leases that begin on the 1st of the month and have a 12-month term.

I understand that the CDA will only approve one move within a 12-month period. I understand that a Mutual Termination of Lease form must be submitted if the agreement is made to terminate the lease before the end of the previously agreed upon term.

I understand that if I want to receive assistance for the first of the month in another housing unit, including another unit in the same building, I am required to give the CDA a proper 60-day written notice. I am also required to give the landlord a proper notice as explained in my lease.

I understand a proper 60-day written notice means two months plus one day. Example: To move July 1, notice must be received by April 30.

I understand that I must vacate my current unit in "good standing" if I want to receive assistance in a new unit. Examples of not leaving in "good standing" include but are not limited to leaving the unit with damage beyond normal wear and tear, failing to give proper notice to the landlord and the CDA, and owing money to the landlord or CDA.

I understand that if I move to a new unit, the CDA cannot guarantee uninterrupted assistance. Gaps in assistance may be more likely if I move to another housing agency's area, due to different deadlines. I will be prepared to pay the first month's full rent.

- **Request for Tenancy Approval Deadline**

I understand that after I give the CDA a proper 60 days written notice to move, I am required to submit a completed Request for Tenancy Approval (RTA) form with information of my new housing unit to the CDA by 4:30 p.m. On the 15th of the month rent assistance begins on the 1st of the following month. If the 15th falls on a weekend or holiday, I have until 4:30 p.m. on the next working day to supply the RTA.

I understand I am responsible to ensure the RTA is received by the CDA office by the deadline. If the RTA is not at the CDA office by this deadline, my assistance in this new housing unit will be delayed at least one month.

- **Inspections**

I understand that the CDA is required to inspect and approve all assisted housing units before assistance begins and on a yearly basis.

I understand that if the inspection does not pass or is not done on or before the 1st working day of the month, the assistance will not begin until the day the unit passes. The CDA rent portion will be prorated based on a 30-day month. I understand that it is my responsibility to negotiate the rent difference with my landlord.

I understand for new or move-in inspections that if the unit is occupied by another family or the inspector cannot get into the unit early, the inspection will be done on the 1st working day of the month.

I understand for yearly re-inspections that I will be notified by mail of the date and time. I understand that I am required to make sure that the inspectors can get into my unit for the inspection. I understand that if I fail to cooperate by not allowing entry into my unit or canceling more than twice my assistance will be terminated.

- **Landlord Claims for Unpaid Rent, Damages, Vacancy Loss**

I understand if I vacate a unit with rent owed to the landlord, vacate without proper notice to the landlord, and/or cause damage to the unit that the owner could withhold my security deposit and make a claim against me to cover any additional expenses. The CDA has no liability to cover any of the expenses. It is between the landlord and me to resolve any issues.

- **CDA Owned Units**

The CDA has informed me that I have the right to select any eligible unit available to lease. I understand that I am free to rent from any landlord who is willing to work with the rent assistance program. If I choose to rent a unit owned by the CDA, it will be freely selected without pressure or steering from CDA.

- **No Duplicate Residence or Assistance**

I certify that I will use the unit assisted by the CDA as my residence and it will be my only residence.

I understand that I cannot sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs from or on behalf of a person living in the unit who is not listed as a household member. I understand that my assistance will be terminated if I sublease the unit or assign the lease or transfer the unit.

I certify that I am not and will not receive assistance while receiving another housing subsidy for the same unit or a different unit under any other federal, state, or local housing assistance program.

I certify that I do not own or have any ownership interest in the unit (except for in a cooperative or a manufactured home assisted in leasing a manufactured home space). I understand the unit cannot be occupied by the owner. I understand that I cannot receive assistance when renting from a relative, unless approved by the CDA as a reasonable accommodation for disabled families.

- **Rent Payments**

I understand that I am not allowed to pay the difference between the landlord proposed rent and the CDA approved rent. This is considered a side payment and is grounds for termination of assistance.

- **Lease Violations**

I understand that my family must not commit any serious or repeated violation of the lease. The CDA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge. Serious and repeated lease violations will include but not be limited to nonpayment of rent, utilities or other fees, disturbance of neighbors, unauthorized guests, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity.

I understand serious and/or repeated lease violations may be cause for termination of assistance. I understand if I, a household member, or a guest of mine, damage the unit of premises beyond normal wear and tear that my assistance will be terminated.

I understand that if I, or anyone in my household, violate a provision of my lease and the landlord wins an eviction against me, the CDA will terminate my assistance. I understand that I must give the CDA a copy of lease termination notice received from the owner or any Summons and Complaint in an eviction action that is received by the family, within 10 business days.

- **Criminal Activity**

I understand that I must promptly notify the CDA in writing of any involvement in criminal or illegal activity by a member or guest of my household. I further understand that involvement in criminal activity will result in termination of my rental assistance.

I understand that members of my household must not engage in drug-related criminal activity, violent criminal activity, or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents.

I understand that members of my 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.

I understand that members of my household must not engage in or threaten abusive behavior toward CDA personnel.

- **Criminal and Administrative Action for False Information**

I understand that family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. I understand that false statements or information are punishable under Federal law.

I understand that false statements or information are grounds for termination of housing assistance and could result in theft and fraud charges under state and federal laws. I understand that the CDA will forward the information to the Dakota County Sheriff's office for possible criminal prosecution.

CHAPTER 13

OWNERS

INTRODUCTION

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the CDA's HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains the provisions of the HAP contract and the relationship between the CDA, and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including CDA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6, HCV Landlord Strategy Guidebook for CDAs]

Education and Outreach

The CDA is responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the CDA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the CDA to ensure that enough owners, representing all types and ranges of affordable housing in the CDA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, the CDA must identify and recruit new owners to participate in the program. The CDA can provide education and outreach in a variety of ways. Some strategies include hosting and attending events targeted to landlords or affordable housing providers. Education and outreach can include activities like newsletters, presentations, briefings to community groups, one-on-one appointments, or other ways of sharing information or creating relationships between the CDA and owners. The CDA may also provide monetary incentives and reimbursements to encourage participation in the program.

If the CDA will be conducting outreach events, the CDA must ensure that notices and communications during outreach events are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. The CDA must also take reasonable steps to ensure meaningful

access to programs to persons with limited English proficiency.

CDA Policy

The CDA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The CDA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers.
- Holding owner recruitment/information meetings at least once a year.
- Participating in community-based organizations comprised of private property and apartment owners and managers.
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program.

Outreach strategies will be monitored for effectiveness and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the CDA must also provide the kind of customer service that will encourage participating owners to remain active in the program. See the "Landlord-Focused Customer Service" chapter of the *HCV Landlord Strategies Guidebook* for more information.

CDA Policy

All CDA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The CDA will hold an annual owners' conference to discuss any program changes and new topics as well as provide an opportunity for owners to ask questions, obtain written materials and meet program staff.

The CDA will provide owners with a handbook that explains the program, including HUD and CDA policies and procedures, in easy-to-understand language.

The CDA will give special attention to helping new owners succeed through activities such as:

- The CDA will strongly encourage first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.
- Providing the owner with a designated CDA contact person.
- Providing other written information about how the program operates, including answers to frequently asked questions.
- Provide program information as well as frequently used forms on the CDA Website.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the CDA to assist families in their housing search by providing the family with a list of landlords or other parties known to the CDA who may be willing to lease a unit to the family, or to help

the family find a unit. As part of the briefing packet, the CDA is also required to provide a current listing of accessible units known to the CDA. Although the CDA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the CDA 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)].

CDA Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the CDA. The CDA will maintain a listing of such owners and 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 unassisted tenant. The CDA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See Chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the CDA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must pass housing quality standards [24 CFR 982.305(a)(2)]. The CDA will inspect the owner's dwelling unit at least biennially to ensure that the unit continues to meet inspection requirements. See Chapter 8 for a discussion of the inspection standards and policies for inspections at initial lease-up and throughout the family's tenancy.

The CDA must determine that the proposed rent for the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the CDA must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See Chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are

encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum (Form HUD-526410A) includes the HUD requirements governing the tenancy and must be added word-for-word to the owner's lease. See Chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The CDA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See Chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Complying with all the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease.
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit.
- Maintaining the unit in accordance with the housing quality standards, including performance of ordinary and extraordinary maintenance.
    - A unit is not in compliance with housing quality standards if the CDA or other inspector authorized by the state or local government determines that the unit has deficiencies based upon an inspection, the agency or inspector notifies the owner in writing of the deficiencies, and the deficiencies are not remedied within the appropriate timeframe.
- Complying with equal opportunity requirements.
- Preparing and furnishing the CDA information required under the HAP contract.
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease.
- Paying for utilities and services that are not the responsibility of the family as specified in the lease.
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203].
- Comply with the Violence against Women Reauthorization Act (VAWA) when screening prospective HCV tenants or terminating the tenancy of a HCV family [see 24 CFR Part 5, Subpart L; 24 CFR 982.310 (h)(4); 24 CFR 982.452 (b)(1); and FR Notice 1/4/23].

13-I.D. OWNER QUALIFICATIONS

The CDA does not formally approve an owner to participate in the HCV program. However, there are several criteria where the CDA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The CDA must not approve the assisted tenancy if the CDA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the CDA not to approve a tenancy request if a court or administrative agency has determined that

the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The CDA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The CDA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19; Form HUD-52641, Section 13]

The CDA 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 CDA (except a participant commissioner).
- Any employee of the CDA, or any contractor, subcontractor or agent of the CDA, 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.

Such "covered individual" may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual for one year thereafter.

> *Immediate family member* means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

HUD may waive the conflict-of-interest requirements, except for members of Congress, for good cause. The CDA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the CDA must include the following [HCV Guidebook pp.11-2 and 11-3]:

- 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 CDA, 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 their 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 CDA or assistance under the HCV program for an eligible CDA 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 CDA, description of the nature of the investment, including disclosure/divestiture plans.

Where the CDA has requested a conflict-of-interest waiver, the CDA may not execute the HAP contract until HUD has decided on the waiver request.

CDA Policy

In considering whether to request a conflict of interest waiver from HUD, the CDA will consider certain factors such as consistency of the waiver 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.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the CDA to disapprove a request for tenancy for various actions and inactions of the owner.

If the CDA 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 p. 11-4].

CDA Policy

The CDA will refuse to approve a request for tenancy if the CDA becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the 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, of employees of the CDA, 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;

- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.
- In considering whether to disapprove owners for any of the discretionary reasons listed above, the CDA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health, and safety of participating families, among others. Upon consideration of such circumstances, the CDA may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents CDA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

CDA Policy

The CDA 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 the 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, creed, sexual orientation, marital status, disability, or receipt of public assistance in connection with any actions or responsibilities under the HCV program and the HAP contract with the CDA.

The owner must cooperate with the CDA 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 CDA.

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 (Form HUD-52641) represents a written agreement between the CDA, 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 CDA's obligations. Under the HAP contract, the CDA agrees to make housing assistance payments to the owner on behalf of the family approved by the CDA to occupy the unit.

The HAP contract is used for all HCV tenant-based program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home. See Chapter 15 for a discussion of any special housing types included in the CDA's HCV program.

When the CDA has determined that the unit meets program requirements and the tenancy is approvable, the CDA and the owner must execute the HAP contract. See Chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic contract information: the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the CDA representative and owner [HCV Guidebook, pp. 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, the CDA does 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. CDA policy on the amount of security deposit an owner may collect is found in Chapter 9.

The CDA also has the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the CDA is deemed received by the owner (e.g., upon mailing by the CDA or actual receipt by the owner).

CDA Policy

The CDA has not adopted a policy that defines when the housing assistance payment by the CDA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- CDA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- CDA and HUD Access to Premises and Owner's Records

- Exclusion of Third-Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the CDA. The tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the CDA 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 CDA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the CDA is credited toward the monthly rent to the owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the CDA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See Chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the CDA, the excess amount must be returned immediately. If the CDA determines that the owner is not entitled to all or a portion of the HAP, the CDA 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

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By accepting the monthly HAP payments from the CDA, the owner certifies compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in

accordance with housing quality standards; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The CDA 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 late penalties if the CDA 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 CDA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the CDA's control. In addition, late payment penalties are not required if the CDA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

The CDA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the CDA 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.

CDA Policy

The owner must inform the CDA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the CDA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide the CDA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the CDA will continue to make HAP payments to the owner until the family moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner *must* inform the CDA of the date when the family moves from the unit, or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with housing quality standards.
- If the owner has violated any obligation under any other HAP contract under the Housing Choice Voucher 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 regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.
- If the owner has engaged in drug-related criminal activity.
- If the owner has committed any violent criminal activity.

If the CDA determines that a breach of the HAP contract has occurred, the CDA must take enforcement action in accordance with 24 CFR 982.404.

The CDA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, withholding or abatement of housing assistance payments, termination of the payment or termination of the HAP contract. The CDA may also obtain additional relief by judicial order or action.

The CDA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The CDA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

CDA Policy

Before the CDA invokes a remedy against an owner, the CDA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the CDA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the CDA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease.
- The lease expires.
- The CDA terminates the HAP contract.
- The CDA terminates assistance for the family.

- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the CDA made the last housing assistance payment to the owner.
- The family is absent from the unit for longer than the maximum period permitted by the CDA.
- The Annual Contributions Contract (ACC) between the CDA and HUD expires.
- The CDA elects to terminate the HAP contract.

CDA Policy

The CDA 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 housing quality standard size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the CDA terminates the HAP contract, the CDA 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 pg.15-4].

CDA Policy

Generally, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the CDA gives written notice to the owner.

The CDA cannot make any HAP payment for any month after the month the family vacates the unit.

The owner is not entitled to any housing assistance payment after this period and must return to the CDA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 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 its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the CDA.

An owner under a HAP contract must notify the CDA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the CDA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the CDA finds acceptable. The new owner must provide the CDA with a copy of the executed agreement.

CDA 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 the policies in Section 13-I.D. of this chapter.

The CDA must receive a signed, written request from the new owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the CDA will inform the new and current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the CDA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- A certification 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, the CDA 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, the CDA will process the leasing in accordance with the policies in Chapter 9.

13-II.G. FORECLOSURE [Notice PIH 2010-49]

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

CDA Policy

If a property is in foreclosure, the CDA will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

The CDA will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information,

including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.

The CDA will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute independent grounds for eviction.

If the CDA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to housing quality standards), or due to an inability to identify the new owner, the CDA will either use the funds to pay:

The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the CDA shall notify the owner within a reasonable time after making the utility payment; or

For the family's reasonable moving costs, including security deposit costs.

The CDA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

CHAPTER 14

PROGRAM INTEGRITY

INTRODUCTION

The CDA is committed to ensuring that subsidy funds made available to the CDA are spent in accordance with HUD requirements.

This chapter covers HUD and CDA 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 CDA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the CDA 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 the CDA with a powerful tool for preventing errors and detecting program abuse. The CDA is required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233]. The CDA is further required to:

- Provide applicants and participants with form HUD-52675, "Debts Owed to CDAs and Terminations; and
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.

CDA Policy

To ensure that the CDA's HCV program is administered according to the highest ethical and legal standards, the CDA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- The CDA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.
- The CDA 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.
- The CDA will provide each applicant and participant with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the CDA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

- The CDA will provide each applicant and participant and require their signature as verification of understanding on the Applicant/Tenant Statement of Responsibilities.
- The CDA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key CDA forms and form letters that request information from a family or owner.
- CDA staff will be required to review and explain the contents of all HUD- and CDA-required forms prior to requesting family member signatures.
- At every regular reexamination, CDA staff will explain any changes in HUD regulations or CDA policy that affect program participants.
- The CDA will invite first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.
- The CDA will provide owners with ongoing information about the program, with an emCDAsis on actions and situations to avoid.
- The CDA will provide each CDA employee with the necessary training on program rules and the organization's standards of conduct and ethics.
- CDA staff will conduct peer level audits of one another's casework.

For the 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 constitutes 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 CDA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the CDA 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 housing quality standards compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

CDA Policy

In addition to the SEMAP quality control requirements, the CDA will employ a variety of methods to detect errors and program abuse.

- The CDA routinely will use HUD and other non-HUD sources of up-front income verification. This includes The Work Number and any other private or public databases available to the CDA.
- The CDA will generate the Deceased Tenants Report at least once a month prior to disbursing the upcoming monthly housing assistance payments to owners.

  Upon review, the CDA will take the following corrective actions:

- Immediately contact the head of household or emergency contact person to confirm the death of the listed household member. A letter will be sent, followed by a telephone call.
- Notify the owner in writing of the deceased household member and if applicable recoup any overpaid HAP paid on the tenant's behalf.

- At each annual or interim reexamination, current information provided by the family will be compared to information provided at the most recent reexamination to identify inconsistencies and incomplete information.
- The CDA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all CDAs that expend $750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of CDA activities and notifies the CDA of errors and potential cases of program abuse.

CDA Policy

The CDA 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 the CDA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

CDA Policy

The CDA will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the CDA Will Investigate

CDA Policy

The CDA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. For the CDA to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The CDA will investigate through file reviews and the verification process.

The CDA will contact the Dakota County Sheriff's Department when inconsistent or contradictory information is detected of any cases deemed to warrant further investigation.

Consent to Release of Information [24 CFR 982.516]

The CDA may investigate possible instances of error or abuse using all available CDA and public records. If necessary, the CDA will require HCV families to sign consent forms for the release of additional information.

Analysis and Findings

CDA Policy

The CDA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation the CDA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to the CDA, 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 CDA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

CDA Policy

In the case of family-caused errors or program abuse, the CDA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the CDA 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

CDA Policy

The CDA will inform the relevant party in writing of its findings and remedies within 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 the CDA 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).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the CDA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

CDA Policy

Increases in the family share will be implemented on the first of the month following a written 30-day notice. If the family failed to report in a timely manner, the increase will be retro-active.

Any decreases in family share will become effective on the first of the month following the discovery of the error. Retroactive payments will be made as necessary.

Reimbursement

Whether the family or owner is required to reimburse the CDA or the CDA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the CDA to use incorrect information provided by a third party.

Family Reimbursement to CDA [HCV GB pp. 22-12 to 22-13]

CDA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The CDA 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, the CDA will terminate the family's assistance in accordance with the policies in Chapter 12.

CDA Reimbursement to Family [HCV GB p. 22-12]

CDA Policy

The CDA 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 CDA [Title 18 U.S.C. Section 1001].

- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

  CDA Policy

  Any of the following will be considered evidence of family program abuse:

  - Payment to the owner in excess of amounts authorized by the CDA for rent, security deposit, and additional services.
  - Offering bribes or illegal gratuities to the CDA Board of Commissioners, employees, contractors, or other CDA representatives.
  - Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the CDA on the family's behalf.
  - Use of a false name or the use of falsified, forged, or altered documents.
  - Intentional misreporting of family information or circumstances (e.g., income, family composition).
  - Omitted facts that were obviously known by a family member (e.g., not reporting employment income).
  - Admission of program abuse by an adult family member.

  The CDA 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 CDA may, at its discretion, impose any of the following remedies.

- The CDA may require the family to repay excess subsidy amounts paid by the CDA, as described earlier in this section.
- The CDA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The CDA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The CDA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., housing quality standards 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 for by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the CDA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the CDA any excess subsidy received. The CDA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the CDA may allow the owner to pay in installments over a period [HCV GB p. 22-13].

CDA Policy

In cases where the owner has received excess subsidy, the CDA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

The CDA may also pursue any other legal remedies available to it in order to recover overpaid subsidy amounts, including but not limited to use of Revenue Recapture under Minnesota Statutes Ch. 270A.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the CDA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

CDA 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 CDA.
- Charging a security deposit other than that specified in the family's lease.
- Charging the family for services provided to unassisted tenants at no extra charge.
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit.
- Knowingly accepting incorrect or excess housing assistance payments.
- Offering bribes or illegal gratuities to the CDA Board of Commissioners, employees, contractors, or other CDA representatives.
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the CDA.
- Residing in the unit with an assisted family.
- Committing sexual harassment or other harassment, either quid pro quo or hostile environment, based on the protected classes as defined in Chapter 2.
- Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2.

Remedies and Penalties

When the CDA determines that the owner has committed program abuse, the CDA 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 CDA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. CDA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of CDA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a CDA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the Code of Conduct (Exhibit 14-1) and the CDA personnel policy.

CDA-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.

De Minimis Errors [24 CFR 5.609(c)(4)]

The CDA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the CDA determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

The CDA must take corrective action to credit or repay a family if the family was overcharged rent, including when the CDA make de minimis errors in the income determination. Families will not be required to repay the CDA in instances where the CDA miscalculated income resulting in a family being undercharged for rent. The CDA must state in its policies how they will repay or credit a family the amount they were overcharged as a result of the CDA's de minimis error in income determination.

CDA Policy

The CDA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

Prohibited Activities

CDA Policy

- Any of the following will be considered evidence of program abuse by CDA staff:
- Failing to comply with any HCV program requirements for personal gain.
- Failing to comply with any HCV program requirements as a result of a conflict-of-interest relationship with any applicant, participant, or owner.
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the CDA.
- Disclosing confidential or proprietary information to outside parties.
- Gaining profit as a result of insider knowledge of CDA activities, policies, or practices
- Misappropriating or misusing HCV funds.
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program.

- Committing any other corrupt or criminal act in connection with any federal housing program.

14-II.E. CRIMINAL PROSECUTION

CDA Policy

When the CDA determines that program abuse by an owner, family, or CDA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the CDA 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 CDA may retain a portion of program fraud losses that the CDA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The CDA 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 CDA to retain the greater of:

- 50 percent of the amount it collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the CDA 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 CDA related to the collection, these costs must be deducted from the amount retained by the CDA.

EXHIBIT 14-1: CODE OF CONDUCT

Prohibited Employee Activity

Political Activity

In accordance with the provisions of the Federal Match Act, CDA employees have the right to express their views as citizens to pursue their legitimate involvement in the political system, and to vote, but cannot, except as permitted by law, engage in any of the following activities:

- No officers, agents, clerks, or employees of Dakota County CDA may directly or indirectly, during their hours of employment solicit or receive funds, or at any time use their authority or official influence to compel any officer or employee to apply for membership in or become a member of any organization, or to pay or promise to pay an assessment, subscription, or contribution, or to take part in any political activity.

Dakota County CDA employees whose principal employment is in connection with an activity which is financed in whole or in part by federal loans or grants are prohibited from:

- Using official authority of influence for the purpose of interfering with or affecting the result of an election or nomination for office;
- Directly or indirectly coercing or attempting to coerce, command, or advise a person employed by the executive branch of the State or a political subdivision whose principal employment is in connection with an activity of value for political purposes; and
- Standing as a candidate for elective office in a partisan election or accepting appointment to a public office where candidacy or appointment would constitute or create the appearance of a conflict of interest without first obtaining a personal Leave of Absence.

Conflict of Interest

Per the U.S. Department of Housing and Urban Development (HUD) in relation to the administration of Housing Assistance Payments (HAP) contracts, no employee of the CDA may have any direct or indirect interest in a HAP contract being administered by the Dakota County CDA. The prohibition of such interest shall apply during employment with the Dakota County CDA and for one year thereafter. The HUD Field Office may permit waivers in certain cases for good cause.

Other Prohibited Activities

Other prohibited acts which may cause for immediate termination are listed under the Dismissal Section of Personnel Policy #370 -Resignation and Termination.

It is the intent of CDA management that tenants of its Senior Buildings have a mode by which to discuss ideas and voice concerns related to their living environment. This can generally be accomplished through Tenant Associations. To achieve representation that is free from the undue influence of its staff, the CDA prohibits its Caretakers or other employees from holding a position of Officer in a Tenant Association for any CDA building.

CHAPTER 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M; New HCV GB, *Special Housing Types*]

INTRODUCTION

The CDA may permit a family to use any of the special housing types discussed in this chapter. However, the CDA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that the CDA must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability, and the CDA must permit a family to lease a manufactured home and space with assistance under the program. The CDA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types. Unless specifically modified by the regulations, housing quality standards apply to special housing types (Single Room Occupancy, Congregate Housing, Group Homes, Shared Housing, Manufactured Homes, Homeownership units) [Notice 2023-28].

CDA Policy

Families will be able to utilize the following special housing types: Single room occupancy and manufactured homes. Single room occupancy, congregate housing, group homes, shared housing and cooperative housing will not be permitted to use with HCV assistance, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

However, policy language is included in this chapter where relevant in the event the CDA does grant use as a reasonable accommodation.

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]. A single unit cannot be designated as more than one type of special housing. The CDA cannot give preference to households that wish to live in any of these types of housing and cannot require households to select any of these types of housing [New HCV GB, *Special Housing Types,* p. 3]

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Manufactured Homes (including manufactured home space rental)

Part III: Homeownership

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single person can reside in an SRO housing unit.

15-I.B. SPECIAL REQUIREMENTS FOR SINGLE ROOM OCCUPANCY ASSISTANCE

Lease and HAP Contract

There is a separate lease and HAP contract for each assisted person.

15-I.C. HAP CALCULATION

(1) For a person residing in SRO housing, the payment standard is 75 percent of the zero-bedroom payment standard amount on the CDA's payment standard schedule. For a person residing in SRO housing in an exception area, the payment standard is 75 percent of the HUD-approved zero-bedroom exception payment standard amount.
(2) The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

15-I.D. HOUSING QUALITY STANDARDS

(a) HQS standards for SRO. As defined in § 982.4, housing quality standards (HQS) refers to the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for housing assisted under the HCV program or a HUD approved alternative standard for the CDA under 24 CFR 5.703(g). However, the standards in this section apply in place of standards related to sanitary facilities, food preparation and refuse disposal, and space and security. Since the SRO units will not house children, the standards at 24 CFR part 35, subparts A, B, H, and R, applying to the PBC program, concerning lead-based paint, do not apply to SRO housing.

(b) Performance requirements.

(1) SRO housing is subject to the additional performance requirements in this paragraph (2). Sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

(i) ***Sanitary facilities.***

(A) At least one flush toilet that can be used in privacy, lavatory basin, and bathtub or shower, in proper operating condition, must be supplied for each six persons or fewer residing in the SRO housing.

(B) If SRO units are leased only to males, flush urinals may be substituted for not more than one-half the required number of flush toilets. However, there must be at least one flush toilet in the building.

(C) Every lavatory basin and bathtub or shower must be supplied at all times with an adequate quantity of hot and cold running water.

(D) All of these facilities must be in proper operating condition, and must be adequate for personal cleanliness and the disposal of human waste. The facilities must utilize an approvable public or private disposal system.

(E) Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them. These facilities may not be located more than one floor above or below the SRO unit. Sanitary facilities may not be located below grade unless the SRO units are located on that level.

(ii) ***Space and security.***

(A) No more than one person may reside in an SRO unit.

(B) An SRO unit must contain at least one hundred ten square feet of floor space.

(C) An SRO unit must contain at least four-square feet of closet space for each resident (with an unobstructed height of at least five feet). If there is less closet space, space equal to the amount of the deficiency must be subtracted from the area of the habitable room space when determining the amount of floor space in the SRO unit. The SRO unit must contain at least one hundred ten square feet of remaining floor space after subtracting the amount of the deficiency in minimum closet space.

(D) Exterior doors and windows accessible from outside an SRO unit must be lockable.

(3) ***Access.***

(i) Access doors to an SRO unit must have locks for privacy in proper operating condition.

(ii) An SRO unit must have immediate access to two or more approved means of exit, appropriately marked, leading to safe and open space at ground level, and any means of exit required by State and local law.

(iii) The resident must be able to access an SRO unit without passing through any other unit.

(4) ***Sprinkler system.*** A sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as State or local law may require

must be installed in each building. The term "major spaces" means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

PART II: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624; FR Notice 1/18/17; New HCV GB *Special Housing Types,* p. 15]

15-II.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts that is built on a permanent chassis and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in three different ways.

(3) A family can choose to rent a manufactured home already installed on a space and the CDA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI. D below.

(4) A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program.

(5) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. CDAs may, but are not required to, provide assistance for such families.

15-II.B. SPECIAL REQUIREMENTS FOR MANUFACTURED HOMEOWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a designated HAP Contract (form HUD-52642) and designated Tenancy Addendum (form HUD 52642-A) for this special housing type.

15-II.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17]

Payment Standards

The CDA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the CDA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

Utility Allowance

The CDA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family

actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the CDA may pay the remainder to the family, lender, or utility company.

Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid utilities.

Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

Rent Reasonableness

Initially, and at least annually thereafter, the CDA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The CDA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly housing assistance payments, the owner of the manufactured space certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.

If requested by the CDA, the owner must give the CDA information on rents charged by the owner for other manufactured home spaces.

15-II.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI. A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

PART III: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-III.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The CDA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

CDA Policy

The CDA is currently administering any previously awarded homeownership vouchers but not authorizing any new program participation.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single down payment assistance grants. However, the CDA may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

CDA Policy

The CDA requires that financing for purchase of a home under its HCV homeownership option complies with standard mortgage underwriting requirements.

The CDA will offer monthly homeownership assistance payments to qualified families. The monthly housing assistance payment may be applied to either the first mortgage or to supplemental financing in the form of a second mortgage.

The CDA does offer down payment assistance to HCV homeownership participants under other funding programs.

The CDA may choose not to offer homeownership assistance. However, the CDA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the CDA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The CDA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The CDA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the CDA has otherwise opted not to implement a homeownership program.

The CDA 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-III.B. FAMILY ELIGIBILITY [24 CFR 982.627]

If the CDA offers the homeownership option, participation by the family is optional. However, the family must meet all the requirements listed below before the commencement of homeownership assistance. The CDA may also establish additional initial requirements if they are described in the CDA administrative

plan.

- The family must have been admitted to and meet the ongoing eligibility requirements of the Housing Choice Voucher program.

  CDA Policy

  Prior to being admitted to the pre-purchase counseling and education program, participants of the homeownership option must be assisted through the HCV program by the CDA for at least 12 months to be eligible for homeownership assistance. To participate in the homeownership assistance, a family must be in good standing with the CDA. A family owing any debt to the CDA will be considered eligible for the homeownership assistance only after all debt has been satisfied.

- The family must qualify as a first-time homeowner.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000 hours, based on the income of adult family members who will own the home. The CDA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the CDA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that meets the CDA requirements and is sufficient to purchase an eligible unit in the CDA's jurisdiction that meets HQS.

  CDA Policy

  In addition to the Federal minimum income requirement, the CDA will require a family to have at least two times their voucher payment standard in monthly gross income. The payment standard for the family is the lower of a) the payment standard for the family unit size according to Chapter 5, Subsidy Standards; or b) the payment standard for the size of the home.

- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.

  CDA Policy

  The CDA shall determine whether and to what extent interruptions are considered to break continuity of employment during the year on a case-by-case basis. The CDA 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 CDA must grant an exemption from the employment requirement if the CDA determines that it is needed as a reasonable accommodation.

- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

15-III.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the CDA may limit homeownership assistance to families or purposes defined by the CDA and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the CDA administrative plan.

If the CDA limits the number of families that may participate in the homeownership option, the CDA must establish a system by which to select families to participate.

CDA Policy

The CDA will administer up to 10 homeownership units at any given time. The CDA may exceed the number of units planned if it is necessary as a reasonable accommodation for a person with a disability. If this occurs, the CDA may reduce the number of homeownership units offered in subsequent years.

Program participants will be selected from the current base of HCV participants. HCV participants will be notified of the CDA's homeownership assistance periodically as slots become available. Homeownership assistance will be available on a first come first serve basis depending on family readiness.

15-III.D. ELIGIBLE UNITS [24 CFR 982.628]

For a unit to be eligible, the CDA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the CDA 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.

Families may enter into contracts of sale for units not yet under construction. However, the CDA will not commence homeownership assistance for the family for that unit until:

- Either the responsible entity completes the environmental review as required by 24 CFR part 58 and HUD approved the environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the CDA in writing of environmental approval of the site prior to construction commencement; and
- Construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection as addressed elsewhere in this chapter.
- For CDA-owned units all the following conditions must be satisfied:
  - The CDA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a CDA-owned unit is freely selected by the family without CDA pressure or steering;
  - The unit is not ineligible housing;
  - The CDA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any CDA provided financing. All of these actions must be completed in accordance with program requirements.

The CDA must not approve the unit if the CDA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-III.E. ADDITIONAL CDA 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 CDA 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 CDA, the CDA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

CDA Policy

An eligible family will have 60 days to locate and execute an agreement to purchase a home. In certain instances, an eligible family may request one 60-day extension. If the family is unable to find a home in the maximum allotted time, the family will not be eligible to reapply for the homeownership option for a full 6 months.

Once a home is located and a purchase agreement has been executed the family must close on the property in customary industry standard timeframes (e.g., 60 days). If the family is not able to close on the purchase of the home within the timeframe specified in the purchase agreement, the CDA will continue the family's participation in the HCV program. The family may not reapply for the homeownership assistance until they have completed an additional 6 months of HCV participation.

The family would not be able to move to another property while being assisted on the program. The family would not be able to refinance the property to take cash out of the property for any reason.

15-III.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

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 CDA. HUD suggests the following topics for the CDA-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 CDA 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;
- Preventing foreclosure;
- Advantages, disadvantages, rights and responsibilities of being a homeowner;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The CDA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The CDA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the CDA offers a program of ongoing counseling for participants in the homeownership option, the CDA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the CDA does not use a HUD-approved housing counseling agency to provide the counseling, the CDA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

CDA Policy

The CDA required the family to successfully complete a minimum of nine hours of pre-purchase education prior to homeownership assistance. Further, the family will be required to attend a minimum of three individual counseling sessions with a CDA homeownership counselor. Education and counseling are provided by the CDA, a HUD-approved housing counseling agency.

15-III.G. HOME INSPECTIONS, CONTRACT OF SALE, AND CDA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The CDA may not commence monthly homeownership assistance payments for a family until the CDA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The CDA may not require the family to use an independent inspector selected by the CDA. The independent inspector may not be a CDA employee or contractor, or other person under control of the CDA. However, the CDA may establish standards for qualification of inspectors selected by families under the homeownership option.

The CDA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

CDA Policy

The family's executed purchase agreement shall be contingent upon the successful completion of an HQS inspection. This inspection shall be performed by a CDA employee or contractor.

The family's independent professional inspector must provide a copy of their inspection report both to the family and to the CDA. The CDA will review the professional report in a timely fashion and based on the presence of major physical problems, may disapprove the purchase of the home. If the CDA disapproves the purchase of the home, the family will be notified in writing of the reasons for the disapproval.

Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the CDA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.
- A contract for the sale of a unit not yet under construction must meet all above requirements, and the requirements below. Commencement of construction in violation of the below requirements voids the purchase contract.
    - The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628; and

- The construction will not commence until the environmental review has been completed and the seller has received written notice from the CDA that environmental approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

Disapproval of a Seller

In its administrative discretion, the CDA may deny approval of a seller for the same reasons a CDA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-III.H. FINANCING [24 CFR 982.632]

The CDA 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 CDA must establish policies describing these requirements in the administrative plan.

The CDA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

CDA Policy

A family participating in the homeownership assistance will be responsible for securing mortgage financing. As a check against predatory lending, the CDA will review the financing of each proposed purchase transaction, including estimated closing costs. The CDA will review the loans for features such as balloon payments, adjustable-rate mortgages, and unusually high interest rates, all of which are prohibited. The CDA considers on a case-by-case basis, the acceptability of contracts for deed, seller-financed mortgages, sub-prime mortgages, or adjustable-rate mortgages. Transactions in which the seller is a relative of the family will not be permitted.

Financing for which the family qualifies must be provided by a duly organized and validly existing lender in good standing under the laws of Minnesota. The financing provided by a qualified lender must comply with generally accepted mortgage underwriting standards consistent with those of HUD, FHA, or the Minnesota Housing Finance Agency.

To ensure that the family has a personal financial stake in the purchase, the CDA will require the family to contribute at least $750 of their own funds towards the entry costs to purchase. The family will also be required to comply with the down payment requirements of the selected loan product.

Upon CDA approval, a family may refinance the home mortgage to take advantage of lower interest rates or better mortgage terms.

15-III.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 CDA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the CDA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the CDA, or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the CDA or HUD concerning mortgage financing or refinancing, sale, or transfer of any interest in the home, or homeownership expenses.
- The family must notify the CDA before moving out of the home.
- The family must notify the CDA if the family defaults on the mortgage used to purchase the home. The family must receive counseling from the CDA's homeownership counselor.
- The family must provide the CDA with information on any satisfaction or payment of the mortgage debt.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

  CDA Policy

  - At least annually, the CDA will conduct a reexamination of the family income and circumstances following the procedures set forth in Chapter 11.
  - Any inspection the CDA conducts after the initial inspection will have to be corrected by the family within 30 calendar days as a condition of continued assistance.
  - If the family moves out of the home, the CDA will discontinue homeownership assistance effective the last day of the month the family vacates.
  - The family may not lease any part of the unit to a third party.

15-III.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at

the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different CDAs, the total of such assistance terms is subject to the maximum term described in this part.

15-III.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the CDA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is greater of (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The CDA may pay the homeownership assistance payments directly to the family, or at the CDA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the CDA must pay the excess directly to the family.

CDA Policy

The CDA will pay the homeownership assistance payments directly to the family. If the family and/or lender requests that the CDA make payments directly to the lender, the CDA will consider this request and may make payments directly to the lender.

The CDA must adopt policies for determining the amount of homeownership expenses to be allowed by the CDA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) must include amounts allowed by the CDA 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 CDA allowance for maintenance expenses;
- The CDA 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 CDA determines that allowance of such costs as homeownership expenses is needed as a

reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;

- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees are assessed by the condominium homeowner association.

The CDA does not have the discretion to exclude any of the listed homeownership expenses or to add any additional items.

Homeownership expenses for a cooperative member include amounts allowed by the CDA 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 and hazard insurance;
- Homeowner association dues;
- The CDA allowance for maintenance expenses;
- The CDA allowance for costs of major repairs and replacements;
- The CDA 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 CDA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-III.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and CDA policies, a family may exercise portability if the receiving CDA is administering a voucher homeownership program and accepting new homeownership families. The receiving CDA may absorb the family into its voucher program or bill the initial CDA.

The family must attend the briefing and counseling sessions required by the receiving CDA. The receiving CDA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving CDA must promptly notify the initial CDA 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 CDA.

15-III.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance or with voucher homeownership assistance.

The CDA must determine that all initial requirements have been satisfied if a family that has received

homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

- The requirement that a family must be a first-time homeowner is not applicable.
- The requirement for pre-assistance counseling is not applicable. However, the CDA may require that the family complete additional counseling (before or after moving to a new unit with continued homeownership assistance).

Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

The CDA may deny permission to move to a new unit with continued voucher assistance:

- If the CDA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the CDA's policy regarding the number of moves within a 12-month period.

  CDA Policy

  Requests to move will be approved and/or denied in accordance with CDA policies in Chapter 10. The CDA will not require additional counseling of any families who move with continued assistance.

The CDA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-III.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the CDA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The CDA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy, except for failure to meet obligations under the Family Self Sufficiency program as prohibited under the alternative requirements set forth in FR Notice 12/29/14.

Homeownership assistance for a family automatically terminates 180 calendar days after the last homeownership assistance payment on behalf of the family. However, the CDA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

CDA Policy

The CDA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations list in Sections 1 and 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

In making its decision to terminate homeownership assistance, the CDA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the CDA 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.

The CDA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

CHAPTER 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the CDA's policies regarding oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the CDA. This part describes policies for recovery of monies that the CDA has overpaid on behalf of families, or to owners, and describes the circumstances under which the CDA will offer repayment agreements to owners and families. Also discussed are the consequences of failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect the CDA.

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 CDA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the CDA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the CDA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The CDA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a CDA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for "other housing purposes permitted by state and local law," in accordance with 24 CFR 982.155(b)(1).

In addition, as specified in Notice PIH 2022-18, CDAs may use administrative fee funding for both administrative and "other expenses" needed to employ strategies and undertake activities beyond regular administrative responsibilities to facilitate the successful leasing and use of housing choice vouchers by families, such as with security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. CDAs are also permitted to use UNP for these expenses [Notice PIH 2022-18].

If a CDA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the CDA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the CDA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

CDA Policy

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed approved budget authority per occurrence without the prior approval of the CDA'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 CDA to adapt the program to local conditions. This part discusses how the CDA 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).

CDA Policy

Copies of the payment standard and utility allowance schedules are available for review in the

CDA's offices during normal business hours.

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.

The CDA 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 and Notice PIH 2024-34]

The payment standard sets the maximum subsidy payment a family can receive from the CDA 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 gross rents in the market area.

In the HCV program, the FMR may be established at the ZIP code level, metropolitan market area level, or nonmetropolitan county level. Within each FMR area, the applicable FMR is the HUD-published:

- Small Area FMR (SAFMR);
  1. For any metropolitan area designated as an SAFMR area; or
  2. Anywhere a PHA has notified HUD it will voluntarily use SAFMRs;
- Metropolitan FMR for any other metropolitan area; or
- FMR for any other non-metropolitan county.

The CDA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the CDA's jurisdiction, and for each unit size within each of the FMR areas. In many cases a single FMR area will cover the PHA's entire jurisdiction. Some PHAs' jurisdictions include more than one FMR area. The PHA's established payment standards within the payment standard area always must be within the basic range of the applicable FMR area, or any HUD-approved exception payment standard. Program regulations and this policy refer to the "applicable FMR." The "applicable FMR" is the HUD-published SAFMR for PHAs in mandatory SAFMR areas or for those PHAs that have opted-in to using the SAFMR, both of which are discussed below

Small Area FMR PHAs (Mandatory and Opt-In) [Notice PIH 2018-01; Notice PIH 2023-32; Notice PIH 2024-34; and Implementing Small Area Fair Market Rents (SAFMR) Guidebook]

SAFMRs are FMRs calculated at the ZIP Code level, rather than for an entire metropolitan or non-metropolitan county.

HUD identifies which metropolitan areas are required to use SAFMRs based on significant voucher concentration challenges and market conditions. PHAs administering the HCV program in those areas are required to use the SAFMRs when establishing payment standards (mandatory SAFMR PHAs). Mandatory SAFMR PHAs must use the SAFMR for any part of their jurisdiction located in the SAFMR area.

Upon notification to HUD, PHAs not located in mandatory SAFMR areas may opt-in and voluntarily adopt SAFMRs for one or more of the FMR areas in which the PHA administers vouchers (opt-in PHAs). A PHA that exercises this option in one metropolitan area or non-metropolitan county is not required to exercise this option in other metropolitan areas or non-metropolitan counties. A PHA that opts in to SAFMRs may subsequently opt out through revision of the administrative plan and notification to HUD.

Alternatively, PHAs may elect to use SAFMRs only as the basis for exception payment standards in some or all of those non-mandatory SAFMR areas that cover or are within their jurisdictions. These PHAs are not considered opt-in PHAs.

When applicable, SAFMRs apply to all tenant-based vouchers in the PHA's jurisdiction, including special vouchers such as the Veterans Affairs Supportive Housing (VASH) program, the Family Unification Program (FUP), and special housing types such as Single Room Occupancies (SROs) and homeownership vouchers. SAFMRs do not apply to manufactured home space rental.

CDA Policy
The CDA is not a mandatory SAFMR PHA.
The CDA will not voluntarily adopt the use of SAFMRs.

The Basic Range [24 CFR 982.503(c) and Notice PIH 2024-34]The CDA may establish a payment standard within the "basic" range established by HUD between 90 and 110 percent of the published FMR for each unit size without HUD approval or prior notification to HUD. For each payment standard area, the CDA must establish a payment standards amount for each unit size which may be based on the same percentage of the published FMR (for example, all untis at 100 percent of FMR), or the CDA may set different standards for different unit sizes (for example, 1-bedrooms at 90 percent and 2-bedrooms at 100 percent of the FMR).

Designated Payment Standard Areas [24 CFR 982.503(a)(3) and Notice PIH 2024-34

The CDA may establish designated payment standard areas within each FMR area where the CDA establishes different payment standards, provided each area is no smaller than a census tract block group. If the CDA designates payment standard areas, then it must include the criteria used to determine the designated areas and the payment standard amounts for those areas in the administrative plan.

CDA Policy

The CDA has not established any designated payment standard areas.

Exception Payment Standards [24 CFR 982.503(d), Notice PIH 2018-01, Notice PIH 2024-34, and FR Notice 9/27/21]
There are several options available to increase payment standards above the basic range. These are known as *exception payment standards,* which are payment standards that exceed 110 percent of the published FMR. The following are types of exception payment standards:

- Payment standards based on SAFMRs in ZIP codes where the SAFMR is higher than the applicable metropolitan or non-metropolitan county FMR
- Payment standards greater than 110 percent up to 120 percent of the applicable FMR
- Payment standards over 120 percent of the applicable FMR
- Payment standards up to 120 percent of the FMR for Veterans Affairs Supportive Housing (HUD-VASH)
- Payment standards necessary as a reasonable accommodation

Payment Standards on SAFMRs in ZIP codes where the SAFMR is Higher than the FMR:

Upon notification from HUD, a PHA that is not located in a SAFMR area or that has not opted to voluntarily adopt SAFMRs may establish an exception payment standard for a ZIP code area that exceeds

the basic range for the metropolitan area or county FMR of up to and including 110 percent of the SAFMR for that ZIP code area. If an exception area crosses one or more FMR boundaries, then the maximum exception payment standard amount that a PHA may adopt for the area without HUD approval is 110 percent of the ZIP code area with the lowest SAFMR amount. A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area.

Payment Standards Greater than 110 Percent Up to 120 Percent:

Upon notification to HUD, a PHA may establish exception payment standards between 110 percent and 120 percent of the applicable FMR if the PHA meets one of the following criteria:

- Success rate: Fewer than 75 percent of families to which the PHA has issued tenant-based vouchers during the most recent 12-month period for which there is success rate data available have become participants on the program; or
- Rent burden: More than 40 percent of families with tenant-based assistance pay more than 30 percent of their adjusted income as their family share.

The CDA may revert back to the basic range at any time without notification to HUD.

The CDA may combine exception payment standards based on the SAFMR and exception payment standards greater than 110 and up to 120 percent.

Other Exception Payment Standards:

PHAs may request HUD approval to establish exception payment standards up to 120 percent of the FMR when the above criteria do not apply or in order to establish exception payment standards that exceed 120 percent of the FMR. Requests may be made for an entire FMR area or a designated part of the FMR area.

Exception Payment Standards for VASH:

In addition, HUD allows CDAs to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. CDAs may go up to, but not higher than, 120 percent of the FMR or SAFMR specifically for VASH families. CDAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD (See Section 19-III.E.).

Once exception payment standards are adopted, the PHA May use the exception payment standard for all units, or for only units of a particular size. The exception payment standard may be established for a designated part of the FMR area (called an "exception area") or for the entire FMR area. Exception areas are typically count, city, town, ZIP code, or census tract areas. However, so long as the exception area is no smaller than the census tract block group, the PHA may determine the area for the exception area.

CDA Policy

The CDA has not established exception payment standards.

Reasonable Accommodation [24 CFR 982.503(d)(5), 24 CFR 982.505(d), Notice PIH 2024-34, and Notice PIH 2010-26]

Unit-by-unit exceptions to the CDA's payment standards generally are not permitted. However, an exception may be made on a case-by-case basis as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the CDA's payment standard schedule.

If required as a reasonable accommodation, the CDA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR/SAFMR for the unit size (or in the case of VASH, up to 140 percent of the FMR/SAFMR). The

CDA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR/SAFMR.

CDA 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, the CDA must determine that:

The family has searched for an appropriate unit within the payment standards;

There is a shortage of affordable units that would be appropriate for the family;

The family share would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

Payment Standard below the Basic Range [24 CFR 982.503(e) and Notice PIH 2024-34]

The CDA 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 consider rent burden on families assisted under the program.

Updating Payment Standards [24 CFR 982.503(c)(3) and Notice PIH 2023-24]

HUD publishes FMRs in the *Federal Register* and also makes them available on the HUD website with an effective date of October 1. When HUD updates FMRs, the PHA must revise its payment standard amounts and schedule no later than three months following the effective date of the published FMR if revisions are necessary to stay within the basic range. 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(h)]. PHAs must include a copy of the payment standard schedule in the voucher briefing materials, and HUD strongly encourages PHAs to post their payment standard schedule on their website.

CDA Policy

The CDA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range," the CDA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The CDA will review projected HAP expenditures to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The CDA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

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, the CDA will consider increasing the payment standard. In evaluating rent burdens, the CDA will not include families renting a larger unit than their family unit size.

Quality of Units Selected: The CDA 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: The CDA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases and decreases by bedroom size.

Unit Availability: The CDA 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: The CDA may 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.

Effective dates of changes to payment standard amounts will be determined at the time of update. The CDA will always ensure the payment standards will be within the basic range. The PCDA will post its payment standards schedule on the CDA's website and include a copy in the voucher briefing materials.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A CDA-established utility allowance schedule is used in determining family share and CDA subsidy. The CDA 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 CDA must maintain an area-wide utility allowance schedule.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the CDA must use normal patterns of consumption for the community, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the CDA 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; applicable surcharges; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the CDA about establishing utility allowance schedules.

The CDA must state its policy for utility allowance payments in the administrative plan and apply it consistently to all households. The CDA must provide a copy of the utility allowance schedule to HUD.

Energy Efficient Utility Allowance [24 CFR 982.517(b)(2)(ii)]

In addition to the area-wide utility allowance standard, the PHA may maintain an area-wide, energy efficient utility allowance schedule to be used for units that are in a building that meets Leadership in Energy and Environmental Design (LEED) or Energy Star standards.

CDA Policy
The CDA will not maintain an energy efficient utility allowance schedule.

Air Conditioning [24 CFR 982.517(b)(1)(iii)]

The CDA must provide a utility allowance for air conditioning when the majority of housing units in the market provide central air conditioning or are wired for tenant-installed air conditioners.

CDA Policy

The CDA has not included an allowance for air conditioning in its schedule.

Reasonable Accommodation and Individual Relief

Upon request from a family that includes a person with disabilities, the CDA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

Further, the CDA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the CDA deems appropriate. The family must request the higher allowance and provide the CDA with an explanation of the need for the individual relief and information about the amount of additional allowance required [see HCV GB, p. 18-8].

CDAs should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company. Policies for granting exception utility allowances can be found in Section 6-III.D. of this plan.

Utility Allowance Revisions

The CDA must review its schedule of utility allowances each year and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised [24 CFR 982.517(c)(1)].

The CDA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

16-II.D. UTILIZATION ASSISTANCE PILOT PROGRAM

HUD recognizes that in some rental markets CDAs have needed to employ strategies and undertake activities beyond the mandatory administrative responsibilities to facilitate the successful leasing and use of housing vouchers by families, such as with security deposit assistance and landlord recruitment and incentive payments. HUD has determined that CDAs may use administrative fee funding for these activities. [PIH Notice 2022-18 [HA]].

CDA Policy

The CDA has implemented this pilot program with an expected outcome of increasing voucher utilization. This program will end if the expected outcomes are not met and/or funding is no longer available.

Eligible Households:

A family must have exhausted all other available funding options and meet one of the following criteria.

1. Be an eligible applicant who has identified a unit and if not for the use of this program the voucher would expire and not be utilized.

2. Housing Choice Voucher (HCV) program compliant participant who is involuntarily displaced from the currently assisted unit due to:

   a. The landlord/owner is selling the rental unit.

   b. The landlord/owner will no longer accept the use of vouchers on the property.

   c. A change in household composition resulting in over occupancy.

   d. An event, such as a fire or flood, resulting in the assisted unit being deemed uninhabitable.

The following are eligible uses under this program:

1. Application Fees
   a. Maximum of three (3) per household.
2. Holding Fees/Prelease Deposits

   Holding fees/prelease deposits are fees an owner request that are rolled into the security deposit after an application is accepted but before a lease is signed. The CDA may cover part or all such fees for units where the fee is required by the owner after a resident's application has been accepted but before the lease signing. The CDA and owner must agree how the holding fee gets rolled into the deposit, and under what conditions the fee will be returned. In general, owners need to accept responsibility for making needed repairs to a unit required by the initial housing quality standards (HQS) inspections and can only keep the holding fee if the client is at fault for not entering into a lease.

3. Security deposits
   a. The amount may not exceed the lesser of one month's rent or the maximum allowed under applicable state and/or local law.
   b. Must be returned to CDA upon the household vacating the assisted unit.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the CDA that may adversely affect them. CDA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of CDA decisions is called "informal review." For participants (or applicants denied admission because of citizenship issues), the appeal process is called an "informal hearing." The CDA is required to include in their administrative plans informal review procedures for

applicants, and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554] 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 [24 CFR 982.554(a) and (c)]

The CDA 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 the following [24 CFR 982.552(a)(2)]:

- Denying listing on the CDA waiting list.
- Denying or withdrawing a voucher.
- Refusing to enter into a HAP contract or approve a lease.
- Refusing to process or provide assistance under portability procedures.

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the CDA.
- General policy issues or class grievances.
- A determination of the family unit size under the CDA subsidy standards.
- A CDA determination not to approve an extension of a voucher term.
- CDA determination not to grant approval of the tenancy.
- A CDA determination that the unit is not in compliance with the housing quality standards.
- A CDA determination that the unit is not in accordance with the housing quality standards due to family size or composition.

CDA Policy

The CDA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the CDA 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)]

The CDA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the CDA 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

CDA Policy

The CDA will send the following to the tenant when denying assistance:

- Letter to the applicant describing the reason for denial of assistance,

- Informal Review Request Form for use by the applicant. This form is used to request the review as well as guide the applicant on what to provide for the informal review,
- A language block written in 10 languages will be included informing the family of free translation services, upon their request.

A request for an informal review must be made in writing and delivered to the CDA either in person, by first class mail, email, or fax by the close of the business day, no later than (10) business days from the date of the notice to the family.

Informal Review Procedures [24 CFR 982.554(b)]

CDA Policy

Informal reviews will be conducted by the Assistant Director of Housing Assistance, Program Coordinator, or Director of Housing Assistance.

The applicant will be provided the opportunity to present written objections to the decision of the CDA; the CDA encourages the use of the Informal Review Form to better assist the applicant.

Informal Review Decision [24 CFR 982.554(b)]

The CDA must notify the applicant of the CDA's final decision, including a brief statement of the reasons for the final decision.

CDA Policy

In rendering a decision, the CDA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the grounds for denial of assistance. 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. The CDA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the CDA will uphold the decision to deny assistance.

The CDA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 14 business days of the informal review, to the applicant and their representative, if any.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

The CDA must offer an informal hearing for certain CDA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the CDA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the CDA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and CDA policies.

The CDA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all 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 CDA 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 CDA utility allowance schedule.
- A determination of the family unit size under the CDA's subsidy standards.
- A determination to terminate assistance for a participant family because of the family's actions or failure to act.
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under CDA policy and HUD rules.
- CDA Policy

  The CDA will also give participant families an opportunity for an informal hearing for:

  - Any denial of a request for a reasonable accommodation for a person with disabilities (see Chapter 2).
  - Families participating in the Family Self-Sufficiency (FSS) program, when the CDA withholds the coordination of supportive services or terminates a family's participation in the FSS program because the CDA determines the FSS family has failed to comply without good cause with the requirements of the FSS Contract of Participation in accordance with the FSS Action Plan [24 CFR 984.303(i)].

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the CDA.
- General policy issues or class grievances.
- Establishment of the CDA schedule of utility allowances for families in the program.
- A CDA determination not to approve an extension of a voucher term.
- A CDA determination not to approve a unit or tenancy.
- A CDA determination that a unit selected by the applicant is not in compliance with the housing quality standards.
- A CDA determination that the unit is not in accordance with HQS because of family size.
- A determination by the CDA to exercise or not to exercise any right or remedy against an owner under a HAP contract.

Remote Informal Hearing [Notice PIH 2020-32]

There is not a requirement that informal hearings be conducted in-person, and as such, HUD

allows the CDA to conduct all or a portion of their informal hearings remotely via telephone, video conferencing, or through other virtual platforms. If the CDA chooses to conduct remote informal hearings, in-person hearings may still be requested, as applicable.

CDA Policy

The CDA has sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the CDA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability. The CDA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. The CDA may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

The CDA is required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the CDA may not hold against the individual their inability to participate in the remote informal hearing, and the CDA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

Conducting Informal Hearings Remotely

The CDA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the CDA. The CDA should determine through a survey or other means if these barriers exist prior to conducting the remote informal

hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the CDA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The CDA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all CDA policies and processed for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

CDA Policy

The CDA will conduct remote informal hearings via telephone conferencing, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the telephone conferencing, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time. The CDA will provide the family with conference call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the CDA of any known barriers. The CDA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The CDA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Hearing Procedures

Notice to the Family **[24 CFR 982.555(c)]**

When the CDA makes a decision that is subject to informal hearing procedures, the CDA must inform the family of its right to an informal hearing while 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 CDA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the CDA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

CDA Policy

In cases where the CDA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the CDA.
- A brief statement of the reasons for the decision, including the regulatory reference.

- The date the proposed action will take place.
- 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. The deadline will be ten (10) business days from the date of the notice to the family.
- To whom the hearing request should be addressed.
- A copy of the CDA's hearing procedures.
- A language block written in 10 languages will be included informing the family of free translation services, upon their request.

Scheduling an Informal Hearing **[24 CFR 982.555(d)]**

When an informal hearing is required, the CDA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

CDA Policy

A request for an informal hearing must be made in writing and delivered to the CDA either in person, by first class mail, email, or fax by the close of the business day, no later than 10 business days from the date of the notice.

The CDA will schedule and send written notice of the informal hearing to the family within a reasonable time.

If the CDA hearing will be conducted remotely, at the time the notice is sent to the family, they will be notified:

Regarding the processes involved in a remote informal hearing;

That the CDA will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or an individual witness has any technological, resource, or accessibility barriers, the family may inform he CDA and the CDA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing *prior* to the hearing date. At its discretion, the CDA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 15 minutes of the scheduled time and is unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the CDA as soon as possible. The CDA 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. The CDA will not consider rescheduling if the family has rescheduled two times. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the CDA's decision will stand.

In other circumstances, the CDA may, at its discretion, reschedule the hearing if the family

presents compelling evidence that it was unable to meet the 24-hour requirement for seeking rescheduling as well as good cause for failing to appear at the original hearing.

Pre-Hearing Right to Discovery **[24 CFR 982.555(e)]**

Participants and the CDA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any CDA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the CDA does not make the document available for examination on request of the family, the CDA may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

CDA Policy

The family will be allowed electronic copies of any documents related to the hearing at no cost. If the family requests paper copies, they will be provided at a cost of $.20 per single side page. The family must request discovery of CDA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

If the hearing is conducted remotely, the CDA will compile a hearing packet, consisting of all documents the CDA intends to present at the informal hearing. The CDA will upload the hearing packet to a secure drop box and provide the link to the participant, known representative, if any, at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of, and retained by, the CDA.

The CDA hearing procedures may provide that the CDA must be given the opportunity to examine at the CDA offices before the hearing any family documents that are directly relevant to the hearing. The CDA must be allowed to copy any such document at the CDA's expense. If the family does not make the document available for examination on request of the CDA, the family may not rely on the document at the hearing.

CDA Policy

The CDA must be given an opportunity to examine at the CDA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the CDA 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 provide such documents to the CDA no later than three (3) business days prior to the 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 CDA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

CDA Policy

The hearing officer must attend grievance officer training if required to do so by the CDA and shall be well versed in program regulations, informal hearing policies, and any directives provided by the Minnesota Court of Appeals in reviewing informal hearing decisions.

Attendance at the Informal Hearing

Attendance at the informal hearing is expected. If the hearing is not attended, or the household is more than 15 minutes late, the right to review by a hearing officer is forfeited. In the instance that the household does not attend the scheduled hearing, the CDA will only consider offering a second hearing for extenuating circumstances and as an accommodation to a disability.

CDA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

- A CDA representative(s) and any witnesses for the CDA.
- The participant and any witnesses for the participant.
- The participant's counsel or other representative.
- Any other person approved by the CDA 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 the CDA's hearing procedures [24 CFR 982.555(4)(ii)].

CDA Policy

The hearing officer is responsible for managing the order of business and ensuring 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. The CDA reserves the right to have law enforcement present if there is reasonable cause to believe a potential threat to safety exists.

Evidence **[24 CFR 982.555(e)(5)]**

The CDA 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.

CDA Policy

Any evidence to be considered by the hearing officer must be presented, by both parties, 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 the CDA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Hearsay evidence is

admissible.

If either the CDA (or the family, if required in a remote hearing) fails to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to make determinations regarding the admissibility of evidence.

Procedures for Rehearing or Further Hearing

CDA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene later, before reaching a decision. If the family misses an appointment, or deadline, ordered by the hearing officer, the action of the CDA will take effect and another hearing will not be granted.

Hearing Officer's Decision **[24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, briefly stating 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.

CDA Policy

In rendering a decision, the hearing officer will consider the following matters:

CDA Notice to the Family: The hearing officer will determine if the reasons for the CDA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the CDA and the family were given the opportunity to examine any relevant documents in accordance with CDA policy.

CDA Evidence to Support the CDA Decision: The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officer will evaluate the facts to determine if they support the CDA's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and CDA policies. If the grounds for termination are not specified in the regulations or in compliance with CDA policies, then the decision of the CDA will be overturned.

The hearing officer will issue a written decision to the family and the CDA no later than 10 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 the CDA representative; and

Name of family representative (if any).

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 their testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the CDA's decision.

Order: The hearing report will include a statement of whether the CDA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the CDA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the CDA to restore the participant's program status.

Issuance of Decision [24 CFR 982.555(e)(6)]

A copy of the hearing must be furnished promptly to the family.

CDA Policy

The hearing officer will provide a "Notice of Hearing Decision" to the CDA. The CDA will promptly provide a copy to the participant sent by first-class mail. A copy of the "Notice of Hearing Decision" will be maintained in the CDA's file.

Effect of Final Decision **[24 CFR 982.555(f)]**

The CDA is not bound by the decision of the hearing officer for matters in which the CDA 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 CDA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the CDA must promptly notify the family of the determination and the reason for the determination.

CDA Policy

The Executive Director has the authority to determine that the CDA is not bound by the decision of the hearing officer because the CDA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the CDA will email a "Notice of Final Decision" to the CDA and the participant on the same day. A copy of this notice will be maintained in the CDA's electronic document management system.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [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 based on 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 CDA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the CDA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria, and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the CDA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the CDA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the CDA 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 USCIS. The family must provide the CDA with a copy of the written request for appeal and the proof of mailing.

CDA Policy

The CDA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

A language block written in 10 languages will be included informing the family of free translation services, upon their request.

The family must provide the CDA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the CDA, of its decision. When the USCIS notifies the CDA of the decision, the CDA must notify the family of its right to request an informal hearing.

CDA Policy

The CDA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

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 CDA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the CDA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The CDA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the CDA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

CDA Policy

The family will be allowed to copy any documents related to the hearing at a cost of $.20 per page. The family must request discovery of CDA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the CDA, and to confront and cross-examine all witnesses on whose testimony or information the CDA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the CDA, 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 CDA may but is not required to provide a transcript of the hearing.

CDA Policy

The CDA will not provide a transcript of an audio taped hearing.

Hearing Decision

The CDA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 10 business 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 CDA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the CDA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

The CDA must retain for a minimum of 5 years the following documents that may have been submitted to the CDA by the family, or provided to the CDA as part of the USCIS appeal or the CDA informal hearing process:

- The application for assistance.
- The form completed by the family for income reexamination.
- Photocopies of any original documents, including original USCIS documents.
- The signed verification consent form.
- The USCIS verification results.
- The request for a USCIS appeal.
- The final USCIS determination.
- The request for an informal hearing.
- The final informal hearing decision.

PART IV: OWNER OR FAMILY DEBTS TO THE CDA

16-IV.A. OVERVIEW

The CDA is required to include in the administrative plan policies concerning repayment by a family of amounts owed to the CDA [24 CFR 982.54]. If the family breaches an agreement with the CDA to pay amounts owed to a CDA, or amounts paid to an owner by a CDA, the CDA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a CDA or amounts paid to any owner by a CDA. The CDA may prescribe the terms of the agreement [24 CFR 982.552©(1)(vii)]. This part describes the CDA's policies for recovery of monies owed to the CDA by families or owners.

CDA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the CDA holds the owner or participant liable to return any overpayments to the CDA.

The CDA will enter into repayment agreements in accordance with the policies contained in this

part to recover overpayments.

16-IV.B. REPAYMENT POLICY

Owner Debts to the CDA

CDA Policy

- Any amount due to the CDA by an owner must be repaid by the owner within 30 days of the CDA determination of the debt.
- If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the CDA will reduce the future HAP payments by the amount owed until the debt is paid in full.
- If the owner is not entitled to future HAP payments the CDA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the CDA.
- If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the CDA will ban the owner from future participation in the program and pursue other modes of collection.
- When an owner refuses to repay monies owed to the CDA, the CDA will utilize other available collection alternatives include, but not limited to, the following:
    - Collection agencies
    - Small claims court
    - Civil lawsuit
    - State revenue recapture program

Family Debts to the CDA

Families are required to reimburse the CDA if they were charged less rent than required because the family either underreported or failed to report income. The CDA is required to determine retroactive rent amounts as far back as the CDA has documentation of family unreported income [Notice PIH 2018-18].

CDA Policy

- Any amount owed to the CDA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the CDA will offer to enter into a repayment agreement in accordance with the policies below.

Criminal Prosecution for Program Fraud/Abuse

Local, state or federal criminal prosecution should be considered by the CDA in flagrant cases, if the abuse was committed over several years, the fraud and/or underpayments are substantial and the CDA documents that the family and/or owner willfully intended to misrepresent the truth [HUD OIG Integrity Bulletin, Summer 2015].

CDA Policy

The CDA refers program fraud/abuse to the Dakota County Attorney's office for prosecution. In extreme cases the CDA also send the referral to the HUD Field Office and regional OIG Special Agency in Charge (SAC).

Refusal to Enter into an Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the CDA must terminate assistance [Notice PIH 2018-18].

CDA Policy

When a family refuses to repay monies owed to the CDA, in addition to termination of program assistance, the CDA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State revenue recapture program

Repayment Agreement [24 CFR 792.103]

The term r*epayment agreement* refers to a formal written document signed by all adult household members or owner and provided to the CDA in which all adult household members or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines for Families

Payment Thresholds

Notice PIH 2018-18 recommends that the total amount that a family must pay each month – the family's monthly share of rent plus the monthly debt repayment amount – should not exceed 40 percent of the family's monthly adjusted income. A family may already be paying 40 percent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2018-18 acknowledges that the CDA has the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

CDA Policy

The CDA has established the following thresholds for repayment of debts:

- Amounts over $3,000 must be repaid within 36 months.
- Amounts between $2,000 and $2,999 must be repaid within 30 months.
- Amounts between $1,000 and $1,999 must be repaid within 24 months.
- Amounts under $1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to the CDA that the threshold applicable to the family's debt would impose an undue hardship, the CDA may, in its sole discretion, determine that the lower monthly payment amount is reasonable. In making its determination, the CDA will consider all relevant information, including the following:

- The amount owed by the family to the CDA;
- The reason for the debt;
- The family's current and potential income and expenses;
- The family's current family share, as calculated under 24 CFR 982.515; and/or
- The family's history of meeting its financial responsibilities.

Execution of the Agreement

All repayment agreements must be in writing, dated, and signed by both the family and the CDA [Notice PIH 2018-18].

CDA Policy

Any repayment agreement between the CDA and an assisted/previously assisted household must be signed and dated by the CDA and by all adult household members (if applicable).

Due Dates

CDA 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

CDA Policy

If a participant fails to make payments for two consecutive months, the CDA will send the family a delinquency notice giving the family 10 business days to make the late payment and bring their account to current. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the CDA will terminate assistance upon written notification to the family.

Repayment Agreements Terms

All repayment agreements must be in writing, dated, signed by both the family and the CDA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions, at a minimum, to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the CDA may terminate assistance because of a family's action or failure to act.
- A statement clarifying that each month the family not only must pay to the CDA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to the owner.
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases.
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance.

No Offer of Repayment Agreement

CDA Policy

The CDA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the CDA, in consultation with HUD and local law enforcement, determine to pursue criminal charges in connection with the conduct and the amounts owed.

PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure CDA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each CDA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the CDA in several ways.

- High-performing CDAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- CDAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- CDAs 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, CDAs that are designated "troubled" may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a CDA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

The CDA 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 CDA board resolution and signed by the CDA executive director. If the CDA 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.

CDAs with less than 250 voucher units are only required to be assessed every other CDA fiscal year. HUD will assess such CDAs annually if the CDA elects to have its performance assessed on an annual basis; or is designated as "troubled" [24 CFR 985.105].

Failure of the CDA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

The CDA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the CDA's SEMAP certification, HUD will rate the CDA'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 CDA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the CDA's certification on the indicator due to the CDA's failure to adequately report

family data, HUD will assign a zero rating for the indicator.

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and Form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A CDA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not rated under SEMAP indicators 1-7.

SEMAP INDICATORS

Indicator 1: Selection from the waiting list
Maximum Score: 15

- This indicator shows whether the CDA has written policies in its administrative plan for selecting applicants from the waiting list and whether the CDA follows these policies when selecting applicants from the waiting list.
- Points are based on the percentage of families that are selected from the waiting list in accordance with the CDA's written policies, according to the CDA's quality control sample.

Indicator 2: Rent reasonableness
Maximum Score: 20

- This indicator shows whether the CDA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units at the required times.
- Points are based on the percentage of units for which the CDA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the CDA's quality control sample.

Indicator 3: Determination of adjusted income
Maximum Score: 20

- This indicator measures whether the CDA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.
- Points are based on the percentage of files that are calculated and verified correctly, according to the CDA's quality control sample.

Indicator 4: Utility allowance schedule
Maximum Score: 5

- This indicator shows whether the CDA maintains an up-to-date utility allowance schedule.
- Points are based on whether the CDA has reviewed the utility allowance schedule and adjusted it when required, according to the CDA's certification.

Indicator 5: HQS quality control inspections
Maximum Score: 5

- This indicator shows whether a CDA supervisor reinspects a sample of units under contract during the CDA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control inspections were completed, according to the CDA's certification.

Indicator 6: HQS enforcement
Maximum Score: 10

- This indicator shows whether, following each housing quality standards inspection of a unit under contract where the unit fails to meet housing quality stnadards, 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 CDA-approved extension.
- Points are based on whether the CDA corrects all HQS deficiencies in accordance with required time frames, according to the CDA's certification.

Indicator 7: Expanding housing opportunities
Maximum Points: 5

- This is applicable to the CDA as it has a jurisdiction in metropolitan FMR areas.
- This indicator shows whether the CDA has 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 the full range of areas where they may lease units both inside and outside the CDA's jurisdiction; and supplies a list of landlords 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 CDA has adopted and implemented written policies in accordance with SEMAP

Indicator 8: FMR limit and payment standards
Maximum Points: 5 points

- This indicator shows whether the CDA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the CDA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.

- Points are based on whether the CDA has appropriately adopted a payment standard schedule(s), according to the CDA's certification.

Indicator 9: Annual reexaminations
Maximum Points: 10

- This indicator shows whether the CDA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percentage of reexaminations that are less than two months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations
Maximum Points: 5

- This indicator shows whether the CDA correctly calculates the family's share of the rent.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

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 percentage of newly leased units that passed HQS inspection on or before the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections
Maximum Points: 10

- This indicator shows whether the CDA inspects each unit under contract at least biennially.
- Points are based on the percentage of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up
Maximum Points: 20 points

- This indicator shows whether the CDA enters HAP contracts at least 98 percent of the number of the CDA's baseline voucher units in the ACC for the calendar year ending on or before the CDA's fiscal year, or whether the CDA has expended at least 98 percent of its allocated budget authority for the same calendar year. The CDA can receive 15 points if 95 to 97 percent of the vouchers are leased or budget authority utilized.
- Points are based on utilization of vouchers and HAP expenditures as reported in the Voucher Management System (VMS) for the most recently completed calendar year.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances
Maximum Points: 10

- Only applies to CDAs with mandatory FSS programs. This is not applicable to the CDA as it operates a voluntary FSS program.

Success Rate of Voucher Holders
Maximum Points: 5

- Only applies to CDAs that have received approval to establish success rate payment standard amounts and isn't effective until the second full CDA fiscal year following the date of HUD approval of success rate payment standard amounts. This is not applicable to the CDA.

Deconcentration Bonus Indicator
Maximum Points: 5

- Submission of data for this indicator is mandatory for the CDA as it is using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50-percentile rent, starting with the second full CDA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to the CDA that has a jurisdiction in metropolitan FMR areas and that chooses to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The CDA 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 CDA 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; 24 CFR 908.101]

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

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

In addition, the CDA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting CDA budget and financial statements for the program;
- Records to document the basis for CDA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

The CDA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

The CDA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [PIH Notice 2018-18].

Notice PIH 2014-20 requires the CDA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

CDA Policy

The CDA will keep for at least three years records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA.

The CDA must keep confidential records of all emergency transfers requested by victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking under the CDA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [24 CFR5.2002(e)(12)].

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

The CDA must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

CDA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized CDA staff for both physical and electronic information.

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

Privacy Act Requirements [24 CFR 5.212 and Form-9886-A]

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

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886-A, 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 CDA may release the information collected.

Upfront Income Verification (UIV) Records

The CDA accesses UIV data through HUD's Enterprise Income Verification (EIV) system and is 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.*

CDA Policy

The CDA has adopted and implemented EIV security procedures required by HUD. Staff that have access to the EIV system and EIV information will attend mandatory EIV security awareness training.

Criminal Records

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

The CDA must establish and implement a system of records management that ensures that any criminal record received by the CDA 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 CDA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The CDA must establish and implement a system of records management that ensures that any sex offender registration information received by the CDA 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 CDA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information or is obtained by the CDA other than under 24 CFR 5.905.

Medical/Disability Records

The CDA is not permitted to inquire about the nature or extent of a person's disability. The CDA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the CDA receives a verification document that provides such information, the CDA should not place this information in the tenant file. The CDA should destroy the document.

Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking

For requirements and CDA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking see section 16-IX.E.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The CDA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the CDA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Health Homes (OLHCHH) of the child's address within five business days. The CDA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

CDA Policy

Upon notification by the owner, the CDA will provide the public health department with written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the CDA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the CDA 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 elevated blood lead level.

If the CDA obtains names and addresses of elevated blood lead level children from the public health department(s), the CDA 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 CDA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the CDA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

CDA Policy

The public health department(s) has stated they do not wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the CDA is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow the CDA to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.354(e)(1) and 982.454]. If a CDA denies a family a portability move based on insufficient funding, the CDA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact the CDA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the CDA will use to determine whether the CDA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract. The CDA must identify in the administrative plan, in the event of insufficient funding, considering any cost saving measures taken by the CDA, a description of the factors the CDA will consider when determining which HAP contracts to terminate first. See Chapter 12 for a description of these factors.

16-VIII.B. METHODOLOGY

CDA Policy

The CDA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the CDA's annual budget authority to the annual total HAP needs monthly. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the CDA 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 consider the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority and funding reserves, or if the CDA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the CDA will be considered to have insufficient funding.

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

The Violence Against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

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

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and CDA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and CDA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.H, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault, Stalking, and Human Trafficking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking"; and 12-II.F, "Termination Notice."

16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
    - A spouse, parent, brother or sister, or child of that individual to whom that individual stands in the position or place of a parent; or
    - Any other individual, tenant, or lawful occupant living the household of the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- 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 can remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - The length of the relationship.
    - The type of relationship.
    - The frequency of interaction between the people 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 under the family or domestic violence laws

of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

- The term economic abuse means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
    - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.
- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies

- Any other emergency technologies

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

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

CDA Policy

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

A copy of Form HUD-5380, Notice of Occupancy Rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Exhibit 16-1)

A copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (Exhibit 16-2)

A copy of the CDA's emergency transfer plan (Exhibit 16-3)

A copy of Form HUD-5383, HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

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

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

CDA Policy

The CDA will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. The CDA will also include information about VAWA in all notices of denial of assistance (see section 3-III.H).

The CDA will provide all participants with information about VAWA at the time of admission (see section 5-I. B) and at annual reexamination. The CDA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

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

CDA Policy

Whenever the CDA has reason to suspect that providing information about VAWA to a participant

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

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

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

Notification to Owners and Managers

While the CDA is no longer required, by regulation, to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the CDA may still choose to inform them.

CDA Policy

The CDA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking and Alternate Documentation.

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

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

The individual may satisfy the CDA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
(2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault stalking, human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The CDA 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 [FR Notice 11/16/16].

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

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

Once the victim provides documentation, the CDA will acknowledge receipt of the documentation within 10 business days.

Conflicting Documentation [24 CFR 5.2007(e)]
In cases where the CDA 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 CDA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The CDA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the CDA. Individuals have 30 calendar days to return third-party verification to the CDA. If the CDA does not receive third-party documentation, and the CDA will deny or terminate assistance as a result, the CDA must hold separate hearings for the participants [Notice PIH 2017-08]. The CDA must honor any court orders issued to protect the victim or to address the distribution of property.

CDA Policy
If presented with conflicting certification documents from members of the same household, the CDA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.
When requesting third-party documents, the CDA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or participants will be given 30 calendar days from the date of the request to provide such documentation.

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

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]
The CDA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance

with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

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

Failure to Provide Documentation [24 CFR 5.2007(c)]
To deny relief for protection under VAWA, a CDA 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 CDA may allow, the CDA may deny relief for protection under VAWA.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

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

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

EXHIBIT 16-1: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENECE AGAINST WOMEN ACT, FORM HUD-5380

Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

When should I receive this form? A covered housing provider must provide a copy of the Notice of Occupancy Rights Under The Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you are admitted as a tenant, when you receive an eviction or termination notice and prior to termination of tenancy, or when you are denied as an applicant. A covered housing provider may provide these forms at additional times.

What is the Violence Against Women Act ("VAWA")? This notice describes protections that may apply to you as an applicant or a tenant under a housing program covered by a federal law called the Violence Against Women Act ("VAWA"). VAWA provides housing protections for victims of domestic violence, dating violence, sexual assault or stalking. VAWA protections must be in leases and other program documents, as applicable. VAWA protections may be raised at any time. You do not need to know the type or name of the program you are participating in or applying to in order to seek VAWA protections.

What if I require this information in a language other than English? To read this information in Spanish or another language, please contact **[**INSERT COVERED HOUSING PROVIDER'S CONTACT INFORMATION; FOR HOPWA PROVIDERS – INSERT GRANTEE NAME AND CONTACT INFORMATION**]** or go to [INSERT WEBSITE, IF APPLICABLE]. You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4**.** If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

What do the words in this notice mean?

- *VAWA violence/abuse* means one or more incidents of domestic violence, dating violence, sexual assault, or stalking.
- *Victim* means any victim of *VAWA violence/abuse*.
- *Affiliated person* means the tenant's spouse, parent, sibling, or child; or any individual, tenant, or lawful occupant living in the tenant's household; or anyone for whom the tenant acts as parent/guardian.
- *Covered housing program*[3] includes the following HUD programs:
    - Public Housing
    - Tenant-based vouchers (TBV, also known as Housing Choice Vouchers or HCV) and Project-based Vouchers (PBV) Section 8 programs
    - Section 8 Project-Based Rental Assistance (PBRA)
    - Section 8 Moderate Rehabilitation Single Room Occupancy
    - Section 202 Supportive Housing for the Elderly
    - Section 811 Supportive Housing for Persons with Disabilities
    - Section 221(d)(3)/(d)(5) Multifamily Rental Housing
    - Section 236 Multifamily Rental Housing
    - Housing Opportunities for Persons With AIDS (HOPWA) program
    - HOME Investment Partnerships (HOME) program
    - The Housing Trust Fund
    - Emergency Solutions Grants (ESG) program
    - Continuum of Care program
    - Rural Housing Stability Assistance program

[3] For information about non-HUD covered housing programs under VAWA, see Interagency Statement on the Violence Against Women Act's Housing Provisions at https://www.hud.gov/sites/dfiles/PA/documents/InteragencyVAWAHousingStmnt092024.pdf.

- *Covered housing provider* means the individual or entity under a covered housing program that is responsible for providing or overseeing the VAWA protection in a specific situation. The covered housing provider may be a public housing agency, project sponsor, housing owner, mortgagor, housing manager, State or local government, public agency, or a nonprofit or for-profit organization as the lessor.

What if I am an applicant under a program covered by VAWA? You can't be denied housing, housing assistance, or homeless assistance covered by VAWA just because you (or a household member) are or were a victim or just because of problems you (or a household member) had as a direct result of being or having been a victim. For example, if you have a poor rental or credit history or a criminal record, and that history or record is the direct result of you being a victim of VAWA abuse/violence, that history or record cannot be used as a reason to deny you housing or homeless assistance covered by VAWA.

What if I am a tenant under a program covered by VAWA? You cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because you (or a household member) are or were a victim of VAWA violence/abuse. You also cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because of problems that you (or a household member) have as a direct result of being or having been a victim. For example, if you are a victim of VAWA abuse/violence that directly results in repeated noise complaints and damage to the property, neither the noise complaints nor property damage can be used as a reason for evicting you from housing covered by VAWA. You also cannot be evicted or removed from housing, housing assistance, or homeless assistance covered by VAWA because of someone else's criminal actions that are directly related to VAWA abuse/violence against you**,** a household member, or another affiliated person.

How can tenants request an emergency transfer? Victims of VAWA violence/abuse have the right to request an emergency transfer from their current unit to another unit for safety reasons related to the VAWA violence/abuse. An emergency transfer cannot be guaranteed, but you can request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
    a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; **OR**
    b. if you (or a household member) are a victim of sexual assault, either you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) were to stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

You can request an emergency transfer even if you are not lease compliant, for example if you owe rent. If you request an emergency transfer, your request, the information you provided to make the request, and your new unit's location must be kept strictly confidential by the covered housing provider. The covered housing provider is required to maintain a VAWA emergency transfer plan and make it available to you upon request. To request an emergency transfer or to read the covered housing provider's VAWA emergency transfer plan, [ENTER SPECIFIC CONTACT INFORMATION, WEBSITE, AND/OR INSTRUCTIONS FOR REQUESTING AN EMERGENCY TRANSFER OR A COPY OF THE APPLICABLE VAWA EMERGENCY TRANSFER PLAN]. The VAWA emergency transfer plan includes information about what the covered housing provider does to make sure your address and other relevant information are not disclosed to your perpetrator.

Can the perpetrator be evicted or removed from my lease? Depending on your specific situation, your covered housing provider may be able to divide the lease to evict just the perpetrator. This is called "lease bifurcation."

What happens if the lease bifurcation ends up removing the perpetrator who was the only tenant who qualified for the housing or assistance? In this situation, the covered housing provider must provide you and other remaining household members an opportunity to establish eligibility or to find other housing. If you cannot or don't want to establish eligibility, then the covered housing provider must give you a reasonable time to move or establish eligibility for another covered

housing program. This amount of time varies, depending on the covered housing program involved. The table below shows the reasonable time provided under each covered housing programs with HUD. Timeframes for covered housing programs operated by other agencies are determined by those agencies.

Covered Housing Program(s)	**Reasonable Time for Remaining Household Members to Continue to Receive Assistance, Establish Eligibility, or Move.**
HOME and Housing Trust Fund, Continuum of Care Program (except for permanent supportive housing), ESG program, Section 221(d)(3) Program, Section 221(d)(5) Program, Rural Housing Stability Assistance Program	Because these programs do not provide housing or assistance based on just one person's status or characteristics, the remaining tenant(s), or family member(s) in the CoC program, can keep receiving assistance or living in the assisted housing as applicable.
Permanent supportive housing funded by the Continuum of Care Program	The remaining household member(s) can receive rental assistance until expiration of the lease that is in effect when the qualifying member is evicted.
Housing Choice Voucher, Project-based Voucher, and Public Housing programs (for Special Purpose Vouchers (e.g., HUD-VASH, FUP, FYI, etc.), see also program specific guidance)	If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing. For HUD-VASH, if the veteran is removed, the remaining family member(s) can keep receiving assistance or living in the assisted housing as applicable. If the veteran was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days to establish program eligibility or find alternative housing.
Section 202/811 PRAC and SPRAC	The remaining household member(s) must be given 90 calendar days from the date of the lease bifurcation or until the lease expires, whichever is first, to establish program eligibility or find alternative housing.
Section 202/8	The remaining household member(s) must be given 90 calendar days from the date of the lease bifurcation or when the lease expires, whichever is first, to establish program eligibility or find alternative housing. If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.
Section 236 (including RAP); Project-based Section 8 and Mod Rehab/SRO	The remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.
HOPWA	The remaining household member(s) must be given no less than 90 calendar days, and not more than one year, from the date of the lease bifurcation to establish program eligibility or find alternative housing. The date is set by the HOPWA Grantee or Project Sponsor.

Are there any reasons that I can be evicted or lose assistance? VAWA does not prevent you from being evicted or losing assistance for a lease violation, program violation, or violation of other requirements that are not due to the VAWA violence/abuse committed against you or an affiliated person. However, a covered housing provider cannot be stricter with you than with other tenants, just because you or an affiliated person experienced VAWA abuse/violence. VAWA also will not prevent eviction, termination, or removal if other tenants or housing staff are shown to be in immediate, physical danger that could lead to serious bodily harm or death if you are not evicted or removed from assistance. **But only if no other action can be taken to reduce or eliminate the threat** should a covered housing provider evict you or end your assistance, if the VAWA abuse/violence happens to you or an affiliated person. A covered housing provider must provide a copy of the Notice of Occupancy Rights Under The Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you receive an eviction or termination notice and prior to termination of tenancy.

What do I need to document that I am a victim of VAWA abuse/violence? If you ask for VAWA protection, the covered housing provider may request documentation showing that you (or a household member) are a victim. BUT the covered housing provider must make this request in writing and must give you at least 14 business days (weekends and holidays do not count) to respond, and you are free to choose any <u>one</u> of the following:

1. <u>A self-certification form (for example, Form-HUD 5382)</u>, which the covered housing provider must give you along with this notice. Either you can fill out the form or someone else can complete it for you;
2. <u>A statement from a victim/survivor service provider, attorney, mental health professional or medical professional</u> who has helped you address incidents of VAWA violence/abuse. The professional must state "under penalty of perjury" that he/she/they believes that the incidents of VAWA violence/abuse are real and covered by VAWA. Both you and the professional must sign the statement;
3. <u>A police, administrative, or court record</u> (such as a protective order) that shows you (or a household member) were a victim of VAWA violence/abuse; **OR**
4. <u>If allowed by your covered housing provider, any other statement or evidence provided by you.</u>

It is your choice which documentation to provide and the covered housing provider must accept any one of the above as documentation. The covered housing provider is prohibited from seeking additional documentation of victim status or requiring more than one of these types of documentation, unless the covered housing provider receives conflicting information about the VAWA violence/abuse.

If you do not provide one of these types of documentation by the deadline, the covered housing provider does not have to provide the VAWA protections you requested. If the documentation received by the covered housing provider contains conflicting information about the VAWA violence/abuse, the covered housing provider may require you to provide additional documentation from the list above, but the covered housing provider must give you another 30 calendar days to do so.

Will my information be kept confidential? If you share information with a covered housing provider about why you need VAWA protections, the covered housing provider must keep the information you share strictly confidential. This information should be securely and separately kept from your other tenant files. No one who works for your covered housing provider will have access to this information, unless there is a reason that specifically calls for them to access this information, your covered housing provider explicitly authorizes their access for that reason, and that authorization is consistent with applicable law.

Your information **<u>will not be disclosed</u>** to anyone else or put in a database shared with anyone else, except in the following situations:

1. If you give the covered housing provider written permission to share the information for a limited time;
2. If the covered housing provider needs to use that information in an eviction proceeding or hearing; or
3. If other applicable law requires the covered housing provider to share the information.

How do other laws apply? VAWA does not limit the covered housing provider's duty to honor court orders about access to or control of the property, or civil protection orders issued to protect a victim of VAWA abuse/violence. Additionally, VAWA does not limit the covered housing provider's duty to comply with a court order with respect to the distribution or possession of property among household members during a family break up. The covered housing provider must follow all applicable fair housing and civil rights requirements.

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. To request a reasonable accommodation, please contact [INSERT APPROPRIATE STAFF MEMBER CONTACT INFORMATION]. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Have your protections under VAWA been denied? If you believe that the covered housing provider has violated these rights, you may seek help by contacting [INSERT LOCAL HUD FHEO FIELD OFFICE & CONTACT INFORMATION]. You can also find additional information on filing VAWA complaints at https://www.hud.gov/VAWA and https://www.hud.gov/program_offices/fair_housing_equal_opp/VAWA. To file a VAWA complaint, visit https://www.hud.gov/fairhousing/fileacomplaint.

Need further help?

- For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa.
- To talk with a housing advocate, contact [ENTER CONTACT INFO FOR LOCAL ADVOCACY AND LEGAL AID ORGANIZATIONS].

Public reporting burden for this collection of information is estimated to range from 45 to 90 minutes per each covered housing provider's response, depending on the program. This includes time to print and distribute the form. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410. This notice is required for covered housing programs under section 41411 of VAWA and 24 CFR 5.2003. Covered housing providers must give this notice to applicants and tenants to inform them of the VAWA protections as specified in section 41411(d)(2). This is a model notice, and no information is being collected. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of or applicant for housing assisted under a covered housing program, or if you are applying for or receiving transitional housing or rental assistance under a covered housing program, and ask for protection under the Violence Against Women Act ("VAWA"), you may use this form to comply with a covered housing provider's request for written documentation of your status as a "victim". This form is accompanied by a "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

VAWA protects individuals and families regardless of a victim's age, sex, or marital status.

You are not expected **and cannot be asked or required** to claim, document, or prove victim status or VAWA violence/abuse other than as stated in "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

This form is **one of your available options** for responding to a covered housing provider's written request for documentation of victim status or the incident(s) of VAWA violence/abuse. If you choose, you may submit one of the types of third-party documentation described in Form HUD-5380, in the section titled, "What do I need to document that I am a victim?". Your covered housing provider must give you at least 14 business days (weekends and holidays do not count) to respond to their written request for this documentation.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I require this information in a language other than English? To read this in Spanish or another language, please contact **[**INSERT COVERED HOUSING PROVIDER'S CONTACT INFORMATION; FOR HOPWA PROVIDERS – INSERT GRANTEE NAME AND CONTACT INFORMATION**]** or go to [INSERT WEBSITE, IF APPLICABLE]. You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa. To speak with a housing advocate, contact [ENTER CONTACT INFO FOR LOCAL ADVOCACY AND LEGAL AID ORGANIZATIONS].

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Name(s) of victim(s):** _____

2. **Your name** (*if different from victim's*)**:** _____

3. **Name(s) of other member(s) of the household:** _____

   _____

4. **Name of the perpetrator** *(if known and can be safely disclosed)***:** _____

5. **What is the safest and most secure way to contact you? (You may choose more than one.)**

   If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

   ☐ Phone Phone Number: _____

   Safe to receive a voicemail: ☐ Yes ☐ No

   ☐ E-mail E-mail Address: _____

   Safe to receive an email: ☐ Yes ☐ No

   ☐ Mail Mailing Address: _____

   Safe to receive mail from your housing provider: ☐ Yes ☐ No

   ☐ Other Please List: _____

Anything else your housing provider should know to safely communicate with you?

_____
_____
_____
_____
_____

6. Applicable definitions of domestic violence, dating violence, sexual assault, or stalking:

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 lives with or has lived 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, 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.

Spouse or intimate partner of the victim includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence means 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) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's individual safety or the safety of others **or**

(2) Suffer substantial emotional distress.

Certification of Applicant or Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that one or more members of my household is or has been a victim of domestic violence, dating violence, sexual assault, or stalking as described in the applicable definitions above.

Signature **Date**

Public Reporting Burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Housing providers in programs covered by VAWA may request certification that the applicant or tenant is a victim of VAWA violence/abuse. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, or STALKING (HCV VERSION)

Attachment: Certification form HUD-5382

Dakota County Community Development Agency

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Housing Choice Voucher Program

Emergency Transfers

The Dakota County CDA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),[4] the Dakota County CDA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.[5] The ability of the Dakota County CDA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the Dakota County CDA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar- day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this

[4]Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[5]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.

section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify the Dakota County CDA's management office and submit a written request for a transfer to **any CDA office**. The Dakota County CDA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the Dakota County CDA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

The Dakota County CDA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the Dakota County CDA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the Dakota County CDA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

The Dakota County CDA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The Dakota County CDA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The Dakota County CDA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the Dakota County CDA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the Dakota County CDA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the Dakota County CDA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Emergency Transfers: Housing Choice Voucher (HCV) Program

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the Dakota County CDA will assist you to move to a safe unit quickly using your existing voucher assistance. The Dakota County CDA will make exceptions to program regulations restricting moves as required.

At your request, the Dakota County CDA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

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

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

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

- Public housing program (if a vacant unit is available).
- PBV assistance in another development not owned by the CDA (if a vacant unit is available)
- Dakota County CDA's Senior Housing Program (if a vacant unit is available and the household meets eligibility requirements)
- Dakota County CDA's Workforce Housing Program (if a vacant unit is available and the household meets eligibility requirements)

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the Dakota County CDA will refer you to organizations that may be able to further assist you.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

Emergency Transfer Request For Victims Of Domestic Violence, Dating Violence, Sexual Assault, Or Stalking

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of housing assisted under a covered housing program, or if you are receiving transitional housing or rental assistance under a covered housing program, you may use this form to request an emergency transfer and certify that you qualify for an emergency transfer under the Violence Against Women Act ("VAWA"). This form refers to domestic violence, dating violence, sexual assault, or stalking as "VAWA violence/abuse."

VAWA protects individuals and families regardless of a victim's age, sex, or marital status.

You may request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
   a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; **or**
   b. if you (or a household member) are a victim of sexual assault, either you reasonably believe there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

A covered housing provider, in response to an emergency transfer request, should not evaluate whether you are in good standing as part of the assessment or provision of an emergency transfer. Whether or not you are in good standing does not impact your ability to request an emergency transfer under VAWA.

However, submitting this form does not necessarily mean that you will receive an emergency transfer. See your covered housing provider's VAWA Emergency Transfer Plan for more information about VAWA emergency transfers and see "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380, for additional housing rights you may be entitled to.

Am I required to submit any documentation to my covered housing provider? Your covered housing provider may request documentation proving that you, or a household member, are a victim of VAWA violence/abuse, in addition to completing this emergency transfer request form. The request can be met by completing and submitting the VAWA Self-certification Form (Form HUD-5382), unless the covered housing provider receives conflicting information about the VAWA violence/abuse. If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you may, instead, choose to submit that documentation to your covered housing provider. See "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380, for more information.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to

do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I need this information in a language other than English? To read this in Spanish or another language, please contact **[**INSERT COVERED HOUSING PROVIDER'S CONTACT INFORMATION; FOR HOPWA PROVIDERS – INSERT GRANTEE NAME AND CONTACT INFORMATION**]** or go to [INSERT WEBSITE, IF APPLICABLE]. You can read translated VAWA forms at https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4. If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa. To speak with a housing advocate, contact [ENTER CONTACT INFO FOR LOCAL ADVOCACY AND LEGAL AID ORGANIZATIONS].

TO BE COMPLETED BY OR ON BEHALF OF THE TENANT REQUESTING AN EMERGENCY TRANSFER

1. **Name(s) of victim(s):**_____
2. **Your name** (*if different from victim's*):
   _____
3. **Name(s) of other household member(s):**_____
4. **Name(s) of other household member(s) who would transfer with the victim:** _____
5. **Name of the perpetrator** (*if known and can be safely disclosed*): _____
6. **Address of location from which the victim seeks to transfer:**_____
7. **Current Unit Size (# of bedrooms):**_____

8. **What is the safest and most secure way to contact you? (You may choose more than one.)** If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

☐ Phone Phone Number:
_____
Safe to receive a voicemail: ☐ Yes ☐ No

☐ E-mail E-mail Address:_____
Safe to receive an email: ☐ Yes ☐ No

☐ Mail Mailing Address:_____
Safe to receive mail from your housing provider: ☐ Yes ☐ No

☐ Other Please List:_____

9. **Anything else your housing provider should know to safely communicate with you?**

_____
_____

10. **What features are requested for a safe unit?** You may list here any information that would facilitate a suitable transfer, such as accessibility needs, and a description of where it is safe or unsafe for you to live.

(*Please note that the ability to provide an emergency transfer is based on unit availability*.)

☐ New Neighborhood ☐ New Building
☐ First Floor unit ☐ Second Floor unit (and above)
☐ Near an Exit ☐ Well-lit hallways/walkways
☐ 24-hour Security ☐ Accessible unit
☐ Other:

_____
_____

11. To approve your request for an emergency transfer, your covered housing provider may require that you provide written documentation that you (or a household member) are a victim of VAWA violence/abuse. Your covered housing provider must make this request for documentation in writing. You can choose to submit **any one** of the following types of documentation:

- Form HUD-5382 *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation*, which asks your name and the perpetrator's name (if known and safe to provide);
- A document signed by a victim service provider, attorney, mental health professional, or medical professional who has helped you address the VAWA violence/abuse. The

professional must state "under penalty of perjury" that he/she/they believe in the occurrence of the incident of VAWA violence/abuse and that it is covered by VAWA. Both you and the professional must sign the statement;

- A police, administrative, or court record (such as a protective order) that shows you (or a household member) are a victim of VAWA violence/abuse; OR
- If permitted by your covered housing provider, a statement or other evidence provided by you.

Certification of Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that I meet the conditions described on this form to qualify for an emergency transfer.

Signature **Date**

Public reporting burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Covered housing providers in programs covered by VAWA may ask for a written request for an emergency transfer for a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking. Housing providers may distribute this form to tenants and tenants may use it to request an emergency transfer. The information is subject to the confidentiality requirements of VAWA. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-5: MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS

Dakota County CDA
NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS
UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault, stalking, and human trafficking.

Purpose

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking involve action by the public housing agency (CDA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through Dakota County CDA's HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

Denial of Tenancy

*Protections for applicants***:** Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

Eviction

*Protections for HCV participants***:** Incidents or threats of domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, stalking, or human trafficking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, stalking, or human trafficking (24 CFR 5.2005(b)(2)).

Limitations of VAWA protections:

a. Nothing in the VAWA limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking; or

2) The distribution or possession of property among members of a household in a case.

b. Nothing in the VAWA limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in the VAWA limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

ii. Any eviction due to "actual and imminent threat" should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, Human Trafficking

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD's regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such a request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, stalking, human trafficking, or the effects of abuse:

2) Signed by the applicant or tenant; and

3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, stalking, or human trafficking under 24 CFR 5.2003; or

c. A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, stalking, or human trafficking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA may be construed to limit the authority of the covered housing provider to:

a. Deny admission by the applicant or tenant to the housing or program;

b. Deny assistance under the covered housing program to the applicant or tenant;

c. Terminate the participation of the tenant in the covered housing program; or

d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking at eviction or termination proceedings.

Owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assist our encourages a person to exercise any rights or protections under VAWA (FR Notice 1/4/23.)

Moves

A victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

Lease Bifurcation

Owners may choose to bifurcate a lease or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be affected in accordance with the procedures prescribed by federal, state, or local law for termination of leases. To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

Evictions Due to "Actual and Imminent Threat" or Violations Not Premised on Abuse

VAWA generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, if the applicant or tenant otherwise qualifies for assistance, participation, or occupancy. (See 24 CFR 5.2005.)

However, VAWA does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:
Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

Confidentiality

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)
Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).
The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

a. Requested or consented to in writing by the individual (victim) in a time-limited release;

b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or

c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

Service Providers

Dakota County CDA has extensive relationships with local service providers. Dakota County Community Services staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in Dakota County CDA's Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

Definitions

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

Affiliated individual, with respect to an individual, means:
(1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
(2) Any individual, tenant, or lawful occupant living in the household of that individual.

Bifurcate means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed, and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

Dating violence means 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) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

Domestic violence includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common

- A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
(1) Fear for the person's individual safety or the safety of others; or
(2) Suffer substantial emotional distress.
VAWA means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).
Attached:
Legal services and the domestic violence resources for the Metro area
Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
[insert name of housing provider] VAWA Notice of Occupancy Rights

CHAPTER 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and CDA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the CDA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the CDA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the CDA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to the owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5; FR Notice 01/18/17; Notice PIH 2017-21]

The project-based voucher (PBV) program allows the CDA, which already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD, to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. The CDA may only operate a PBV program if doing so is consistent with the CDA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

CDA Policy

The CDA will operate a project-based voucher program using up to 200 vouchers for project-based assistance, plus vouchers for project-based assistance at up to 120 former public housing scattered-site units.

For purposes of this chapter, "project" shall be defined in the broadest possible manner allowed by PBV requirements.

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 CDA is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, the CDA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the CDA has vouchers available for project-basing [FR Notice 1/18/17].

Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]

The CDA may project-base an additional 10 percent of its units above the 20 percent program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. For units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
- Are specifically made available to house families that are comprised of or include a veteran.
  - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

  PBV units that house eligible youth receiving FUPY/FYI assistance are also covered by this 10 percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. FYI TPV's that were awarded under Notice PIH 2019-20 are not part of this exception since CDAs are prohibited from project-basing FYI TPV's. Units added after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are

eligible for this 10 percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this 10 percent exception authority [FR Notice 1/24/22]. See Chapter 19 for policies specific to project basing FUPY vouchers.

CDA Policy

The CDA may project-base up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after 04/18/17.CDA Policy.

The CDA may project-base units not subject to the 2- percent cap in accordance with HUD regulations and requirements. The CDA will project-base up to 120 former public housing scattered-site units noted above. These units are not subject to the 20 percent cap.

17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Many of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the CDA 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.

CDA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the CDA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. The CDA may not use voucher program funds to cover relocation costs, except that the CDA may use its administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and if payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the CDA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The CDA 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 CDA must comply with the CDA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW

With certain exceptions, the CDA must describe the procedures for owner submission of PBV proposals and for CDA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the CDA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The CDA may not commit PBV's unit or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

The CDA must select PBV proposals in accordance with the selection procedures in the CDA administrative plan. The CDA must select PBV proposals by either of the following two methods.

- CDA request for PBV Proposals. The CDA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the CDA request. The CDA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The CDA may select proposals that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The CDA need not conduct another competition.

Units Selected Non-Competitively [FR Notice 1/18/17, Notice PIH 2017-21, 24 VFR 983.51(b)]

For certain public housing projects where the CDA has ownership interest or control, the CDA may attach PBV assistance non-competitively without following one of the two processes above.

This exception applies when the CDA is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory within five years of the date on which the CDA entered into the AHAP or HAP.

If the CDA is planning rehabilitation or new construction on the project, the minimum threshold of $25,000 per unit in hard costs must be expended.

If the CDA plans to replace public Housing by attaching PBV assistance to existing housing in which the CDA has an ownership interest or control, then the $25,000 per unit minimum threshold does not apply if the existing housing substantially complies with HQS.

The CDA must include in the administrative plan what work it plans to do on the property or site and how many PBV units will be added to the site.

CDA Policy

The CDA will attach PBVs to up to 120 units owned by the CDA as described above. These units needed only minor repair work to meet HQS when selected, and thus substantially complied with HQS at that time. The CDA plans only to do the work needed so that these units will pass HQS.

The CDA will select PBV proposals through competitive procedures only when non-competitive selection is not applicable.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]

CDA procedures for selecting PBV proposals must be designed and operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the CDA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and operated to provide broad public notice. The public notice of the CDA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

CDA Policy

When using competitive procedures, the CDA will advertise its request for proposals (RFP) for existing, rehabilitated and newly constructed housing in a local newspaper of general circulation.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the CDA will post the RFP and proposal submission and rating and ranking procedures on its web site.

The CDA will publish its advertisement in the newspaper mentioned above. Proposals will be due in the CDA office by close of business 21 calendar days from the date of publication.

For the proposal to be considered, the owner must submit the proposal to the CDA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The CDA will review all proposals for the following threshold criteria:

- Site:

  Sites must be compatible with the surrounding neighborhood. For example, if a proposal is for single family or duplex units, the location should be in a single family/duplex residential neighborhood.

  Sites must be accessible to services and amenities appropriate to the type of housing proposed. Examples include locating a property of predominately larger units close to parks, recreational facilities, shopping, employment, and transportation or locating a property of predominately 1-bedroom units for seniors close to medical facilities, transportation, and shopping.

  Sites must meet the requirements of HUD environmental standards.

- Design:

  The proposal must be compliant with Housing Quality Standards (HQS) as well as local codes, ordinances, and zoning requirements. Documentation of compliance may include providing working drawings and specifications for new construction or providing certificates of occupancy or building code inspection reports for existing housing.

  Amenities incorporated in the design should be appropriate to prospective tenants.

- Feasibility:

  The proposal must be marketable and demonstrate a strong likelihood of being financed.

- Ability to Successfully Develop, Market and Manage

  The applicant must be able to demonstrate previous experience with similar housing proposals, education on the Project Based Voucher program, and/or available resources to successfully develop, market and manage the proposal.

The CDA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Projects that provide onsite supportive housing services to its residents (15 points).
- Projects that serve families with children will receive priority in this category. Points will be awarded for applications that have 2+ bedroom units (10 points).
- Proximity of the proposed development to public facilities, sources of employment, and services, including public transportation, health, education, and recreation facilities (0-10 points).
- Prior extensive experience of the applicant in developing and managing similar residential housing (0-10 points).
- Demonstrated ability and capacity of the applicant to proceed expeditiously with the proposal (0-10 points).
- Length of commitment to long-term affordability of the proposed housing for households at or below 50% of area median income. Points will be awarded for length of commitment

as follows: 1-5 years = 2 points, 6-10 years = 5 points, 11-15 years = 7 points, 16+ years = 10 points.

- Extent to which the proposed project has been developed as a result of a cooperative agreement or arrangement among public, semi-public or non-profit agencies and organizations (0-10 points).
- Extent to which the proposed project promotes linkages among housing, jobs, and transportation and/or promotes higher-density development along selected transportation corridors (0-10 points).
- Extent to which the project can serve as a model for other communities (0-10 points).

CDA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]

A CDA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the CDA-owned units were appropriately selected based on the selection procedures specified in the CDA administrative plan. This also applies to non-competitive selections. If the CDA selects a proposal for housing that is owned or controlled by the CDA, the CDA must identify the entity that will review the CDA proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections.

In the case of CDA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the CDA and a HUD-approved independent entity. In addition, an independent entity must determine the initial rent to the owner, the re-determined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the CDA jurisdiction (unless the CDA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

CDA Policy

The CDA will consider PBV assistance at CDA-owned properties.

The CDA may only compensate the independent entity from CDA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The CDA may not use other program receipts to compensate the independent entity for its services. The CDA and independent entity may not charge the family any fee for the appraisal, or the services provided by the independent entity.

CDA Notice of Owner Selection [24 CFR 983.51(d)]

The CDA 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 operated to provide broad public notice.

CDA Policy

Within 10 business days of the CDA making the selection, the CDA will notify the selected owner in writing of the owner's selection for the PBV program. The CDA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

The CDA will make available to any interested party its rating and ranking sheets and documents

that identify the CDA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The CDA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The CDA will make these documents available for review at the CDA during normal business hours. The cost for reproduction of allowable documents will be $.20 per page.

17-II.C. HOUSING TYPE [24 CFR 983.52]

The CDA 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 CDA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The CDA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The CDA choice of housing type must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The CDA 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 CDA may not attach or pay PBV assistance for a unit occupied by an owner and the CDA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to the unit for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

Subsidized Housing [24 CFR 983.54]

A CDA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a CDA 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 CDA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, Notice PIH 2013-11, and FR Notice 3/13/23]

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.

HUD requires new construction and rehabilitation housing that will include forms of governmental assistance other than PBVs to undergo a subsidy layering review (SLR) prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements do not apply to existing housing, when PBV is the only governmental assistance, or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

When the CDA selects a new construction or rehabilitation project, the CDA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using Form HUD-2880. Appendix A of FR Notice 3/13/23 contains a list of all required documentation.

Either HUD or a HUD-approved housing credit agency (HCA) in the CDA's jurisdiction performs the subsidy layering review. The CDA must request an SLR through their local HUD Field Office or, if eligible, through a participating HCA.

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify the CDA. The CDA may proceed to execute an AHAP at that time if the environmental approval is received.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition,

development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56, FR Notice 1/18/17, and Notice PIH 2017-21]

In general, the CDA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]

As of April 18, 2017, units are not counted against the 25 percent or 25-unit per project cap if:

- The units are exclusively for elderly families.
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project.

  If the project is in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services.

Under the Fostering Stable Housing Opportunities (FSHO) amendments, units exclusively made available to youth receiving FUPY/FYI assistance may be excepted from the project cap for HAP contracts first effective after December 27, 2020. For more information on excepted units for FUPY, see Chapter 19.

Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) or FSHO (contract in effect on or prior to December 27, 2020) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless the CDA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

Supportive Services

The CDA must include in the CDA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. As of April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive supportive services. It is not necessary that the services be provided at or by the project but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. The CDA may not require participation in the supportive services as a condition of living in the excepted unit, although such services may be offered.

CDA Policy

Excepted units will be limited to units for elderly families and households eligible for supportive services available to all families receiving PBV assistance in the project.

The services provided will be customized to the family needs including, but not limited to, social/emotional assessments, counseling, identification of community services and resources, and education.

Projects not Subject to a Project CAP [FR Notice 1/18/17; Notice PIH 2017-21]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance.

CDA Policy

The 120 former public housing scattered-site units that may receive PBV are subject to the per project cap exception. Thus, all units may receive assistance and occupancy is not limited to elderly families and households eligible for supportive services.

Promoting Partially Assisted Projects [24 CFR 983.56(c)]

A CDA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A CDA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. A CDA may also determine not to provide PBV assistance for excepted units, or the CDA may establish a per-project cap of less than 25 units or 25 percent of units.

CDA Policy:

The CDA will not provide assistance for excepted units. Beyond that, the CDA will not impose any further cap on the number of PBV units assisted per project.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The CDA 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 CDA 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 CDA Plan under 24 CFR 903 and the CDA administrative plan.

In addition, prior to selecting a proposal, the CDA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

CDA Policy

It is the CDA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, the CDA will limit approval of sites for PBV housing in census tracts that do not have a high poverty concentration.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The CDA 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 CDA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The CDA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The CDA 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 PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The CDA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the CDA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The CDA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The CDA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, 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, and 40 CFR 745.227, apply to the PBV program.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The CDA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The CDA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the CDA must inspect all the units before the proposal selection date and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the CDA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b), FR Notice 1/18/17, and Notice PIH 2017-20]

The CDA must inspect each contract unit before execution of the HAP contract. The CDA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the CDA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.

CDA Policy

The CDA will not provide assistance on behalf of the family until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the CDA must inspect the unit. The CDA may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the CDA 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 inspection requirement. The CDA also has the option in certain mixed finance properties to rely on alternative inspections conducted at least triennially.

CDA Policy

The CDA will inspect, on an annual basis, 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. If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the CDA must re-inspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The CDA must inspect contract units whenever needed to determine that the contract units comply with HQS, and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The CDA must consider complaints and any other information coming to its attention in scheduling inspections.

The CDA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting CDA supervisory quality control HQS inspections, the CDA should include a representative sample of both tenant-based and project-based units.

Inspecting CDA-Owned Units [24 CFR 983.103(f)]

In the case of CDA-owned units, the inspections must be performed by an independent entity designated by the CDA and approved by HUD. The independent entity must furnish a copy of each inspection report to the CDA and to the HUD field office where the project is located. The CDA must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by the CDA-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNIT

17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance. Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the CDA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The CDA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the CDA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the CDA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

Content of the Agreement [24 CFR 983.152(d)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the CDA,

specifications and plans. For new construction units, the description must include the working drawings and specifications.

- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after CDA notice of proposal selection to the selected owner. The CDA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the CDA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the CDA may not enter into the Agreement until the environmental review is completed and the CDA has received environmental approval. However, the CDA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

CDA Policy

The CDA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether 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 CDA must monitor compliance with labor standards.

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 CDA in the form and manner required by the CDA:

- 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 CDA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

CDA Policy

The CDA will request certificates of occupancy as evidence of completion of construction and/or rehabilitation.

CDA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the CDA 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 CDA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the CDA must not enter into the HAP contract.

If the CDA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the CDA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

The CDA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. Except for single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;

- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set-aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The CDA may not enter into a HAP contract until each contract unit has been inspected and the CDA has determined that the unit complies with the Housing Quality Standards (HQS), unless the CDA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the CDA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the CDA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

CDA Policy

For existing housing, the HAP contract will be executed within a reasonable time of the CDA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the CDA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]

The CDA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of CDA-owned units, the term of the HAP contract must be agreed upon by the CDA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

CDA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis and for an initial term of no less than one year and no more than 10 years. The CDA will consider a term of up to, 15 years when required to comply with another secured financing source. Notwithstanding this CDA policy and the following CDA policy, the CDA may determine to allow as part of the initial HAP contract up to the maximum permissible initial term and extensions for the former public housing scattered-site units.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the CDA may extend the term of the contract for an additional term of up to 20 years if the CDA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. The CDA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the CDA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand

housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of CDA-owned units, any extension of the term of the HAP contract must be agreed upon by the CDA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

CDA Policy

When determining whether to extend an expiring PBV contract, the CDA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

Termination by CDA [24 CFR 983.205(c) and FR Notice 1/18/17]

The HAP contract must provide that the term of the CDA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the CDA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

In times of insufficient funding, HUD requires that the CDA first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the CDA 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 CDA. In this case, families living in the contract units must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206, FR Notice 1/18/17, and Notice PIH 2017-21]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the CDA 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 sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owners require notice period ends. The CDA must provide the family with a voucher and the family must also be given the option by the CDA and owner to remain in their unit with HCV tenant-based assistance if the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain the project if the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the CDA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

Remedies for HQS Violations [24 CFR 983.208(b)]

The CDA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the CDA determines that a contract does not comply with HQS, the CDA may exercise any of its remedies under the HAP contract, for any or all 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.

CDA Policy

The CDA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.207(a)]

At the CDA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the CDA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]

The CDA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the CDA must submit to the local field office, information outlined in FR Notice 1/18/17. The CDA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

CDA Policy

The CDA will add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of the units does not exceed allowable project caps.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract s/he always certifies that at such execution and 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 CDA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of the family;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]

The owner is required to maintain the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all services,

maintenance, equipment, and utilities specified in the HAP contract with the CDA and in the lease with each assisted family. In addition, maintenance, replacement, and redecoration must be in accordance with the standard practice for the building as established by the owner.

The CDA 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.

CDA Policy

The CDA will identify the need for any special features beyond the design threshold criteria noted above on a case-by-case basis depending on the intended occupancy of the PBV project. The CDA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the CDA, the HAP contract may provide for vacancy payments to the owner for a CDA-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 CDA 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).

CDA Policy

The CDA will not make vacancy payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The CDA may select families for the PBV program from those who are participants in the CDA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the CDA, meet asset limit requirements, have income at or below HUD-specified income limits, and qualify based on citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant's family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the CDA's collection and use of family information regarding

income, expenses, and family composition [24 CFR 5.230]. The CDA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

CDA Policy

The CDA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the CDA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the CDA's waiting list. Once the family's continued eligibility is determined (the CDA 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 CDA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The CDA may establish a separate waiting list for PBV units, or it may use the same waiting list for both tenant-based and project-based assistance. The CDA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the CDA. If the CDA chooses to offer a separate waiting list for PBV assistance, the CDA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a CDA decides to establish a separate PBV waiting list, the CDA may use a single waiting list for the CDA'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.

CDA Policy

The CDA will use a separate waiting list for both tenant-based and project-based assistance.

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the CDA's waiting list. The CDA may establish selection criteria or preferences for occupancy of particular PBV units. The CDA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the CDA's tenant-based and project-based voucher programs during the CDA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the CDA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

The CDA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program, or for occupancy of particular PBV developments or units. The CDA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The CDA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, if preference is consistent with the CDA Plan. The CDA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the services offered as a condition of occupancy.

If the CDA has projects with "excepted units" for elderly families or supportive services, the CDA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

CDA Policy

The CDA will provide a selection preference when required by the regulation (e.g., eligible in-place families, or mobility impaired persons for accessible units). The CDA will offer an additional preference for PBV projects or units that offer supportive services.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The CDA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the CDA's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the CDA 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 CDA must provide a briefing packet that explains how the CDA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the CDA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the CDA 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 CDA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a) and (a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the CDA from the CDA'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 CDA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the CDA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the CDA must make every reasonable effort to promptly refer enough families for the owner to fill such vacancies. The CDA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

CDA Policy

The CDA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the CDA 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.

CDA Policy

If any contract units have been vacant for 120 days, the CDA 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.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

CDA Responsibility

The CDA is not responsible or liable to the owner or any other person for the family's behavior or

suitability for tenancy. However, the CDA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

CDA Policy

The CDA will not conduct screening to determine a PBV applicant family's suitability for tenancy. The CDA will conduct screening for eligibility for the program.

The CDA must provide the owner with an applicant family's current and prior address (as shown in CDA records) and the name and address (if known by the CDA) of the family's current landlord and any prior landlords.

In addition, the CDA may offer the owner other information the CDA 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 CDA must provide applicant families with a description of the CDA policy on providing information to owners, and the CDA must give the same types of information to all owners.

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

CDA Policy

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

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the CDA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a CDA model lease.

The CDA may review the owner's lease form to determine if the lease complies with state and local law. If the CDA determines that the lease does not comply with state or local law, the CDA may decline to approve the tenancy.

CDA Policy

The CDA 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 the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the CDA (the names of family members and any CDA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the least in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the least term. For automatic indefinite extension of the lease term, the

lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The CDA terminates the HAP contract
- The CDA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the CDA a copy of all changes.

The owner must notify the CDA 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 CDA and in accordance with the terms of the lease relating to its amendment. The CDA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by CDA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. CDA's termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the CDA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

CDA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the CDA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant. The CDA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

CDA Policy

The CDA will allow the owner to collect a security deposit amount the owner determines is appropriate and in compliance with applicable law.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducing the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The CDA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

If the CDA determines that a family is occupying a wrong size unit, based on the CDA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the CDA must promptly notify the family and the owner of this determination, and the CDA must offer the family the opportunity to receive continued housing assistance in another unit.

CDA Policy

The CDA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the CDA's determination. When a family is placed in a PBV unit with the intention of reunification of minor children, if at the first annual recertification, the children have not been reunified, the family will be notified of the need to move and the CDA will offer another form of assistance, if available. The CDA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

Tenant-based voucher assistance;

PBV assistance in the same building or project; and

PBV assistance in another project.

If the CDA offers the family a tenant-based voucher, the CDA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the CDA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the CDA must remove the unit from the HAP contract.

If the CDA 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 CDA, or both, the CDA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the CDA and remove the unit from the HAP contract.

CDA Policy

The CDA will offer the family another form of assistance and opportunity to move at the end of the existing lease term.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the CDA. If the family wishes to move with continued tenant-based assistance, the family must contact the CDA to request rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the CDA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the CDA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, the CDA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the CDA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

CDA Policy

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one year, the CDA will provide several options for continued assistance.

The CDA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the CDA has PBV units. The CDA will expedite the administrative processes in this case to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the CDA's public housing program. Such a decision will be made by the CDA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The CDA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are

available, the CDA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the CDA has PBV units. The CDA will expedite the administrative processes in this case to conduct the transfer as quickly as possible.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262,]

As of April 17, 2018, the CDA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project

If the project is in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent instead of 25 percent) of the units in the project [FR Notice 7/14/17].

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the CDA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period established by the CDA and the CDA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly family due to a change in family composition, the CDA has discretion to allow the family to remain in the excepted unit. If the CDA does not exercise this discretion, the family must vacate the unit within a reasonable period established by the CDA, and the CDA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participant in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A CDA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projected based on service needs.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the CDA.

The CDA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to

continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

CDA Policy

If the CDA later determines to provide assistance to excepted units, the CDA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

In all other cases, the CDA will provide written notice to the family and owner within 10 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, the CDA will terminate the housing assistance payments at the expiration of this 30-day period.

The CDA 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.

As noted above, these project cap rules are inapplicable to the 120 former public housing scattered sites.

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 the owner is redetermined 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 CDA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;

- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard;

For contract units that meet all these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The CDA must determine reasonable rent in accordable with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the CDA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordable with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the CDA 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.

CDA Policy
The CDA will elect within the HAP contract not to reduce rents below the initial level, except for circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the CDA 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 the owner, the CDA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining

the rent to the owner, the CDA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the CDA 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 CDA 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.

CDA Policy

Upon written request by the owner, the CDA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The CDA will review and decide based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the CDA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the CDA determines it is necessary due to CDA budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]

While small area FMRs (SAFMRs) do not apply to PBV projects, CDAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If the CDA adopts this policy, it must apply to all future PBV projects and the CDA's entire jurisdiction. The CDA and owner may not subsequently choose to revert to use of the FMRs once the SAFMRs have been adopted, even if the CDA subsequently changes its policy.

Further, the CDA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of CDA implementation, provided the owner is willing to mutually agree to doing so and the use of FMRs once the SAFMRs have been adopted, even if the CDA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

CDA Policy

The CDA will not apply SAFMRs to the CDA's PBV program.

Redetermination of Rent [24 CFR 983.302]

The CDA must redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to the owner from the CDA, 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 CDA. The CDA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or

similar costs).

CDA Policy

An owner's request for a rent increase must be submitted to the CDA a minimum of 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

The CDA 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.

Notice of Rent Change

The rent to owner is redetermined by written notice by the CDA to the owner specifying the amount of the redetermined rent. The CDA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to the owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

CDA Policy

The CDA will provide the owner with at least 30 days, prior to the anniversary date of the HAP contract, written notice of any approved changes in the amount of rent. Written approval will include a revised Exhibit A and C indicating the new rent amount and effective date.

CDA-Owned Units [24 CFR 983.301(g)]

For CDA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The CDA must use the rent to owner established by the independent entity.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the CDA, except where the CDA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

The CDA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The CDA approves a change in the allocation of responsibility for utilities between the owner and the tenant;

- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the CDA must consider factors that affect market rent. Such factors include the location, quality, size, type, and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the CDA. The comparability analysis may be performed by CDA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

CDA-Owned Units

For CDA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for CDA-owned units to the CDA and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the CDA 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 the owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II. D).

Other Subsidy [24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, the CDA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding. For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;

- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to the owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the CDA 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 CDA agree on a later date.

Except for discretionary vacancy payments, the CDA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the CDA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the CDA determines that the vacancy is the owner's fault.

CDA Policy

If the CDA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the CDA will notify the landlord of the amount of housing assistance payment that the owner must repay. The CDA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the CDA, the HAP contract may provide for vacancy payments to the owner. The CDA may only make vacancy payments if:

- The owner gives the CDA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);

- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the CDA 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 CDA and must provide any information or substantiation required by the CDA to determine the amount of any vacancy payment.

CDA Policy

Vacancy payments are not allowed.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the CDA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the CDA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the CDA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the CDA. The owner must immediately return any excess payment to the tenant.

Tenant and CDA 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 CDA.

Likewise, the CDA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The CDA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The CDA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the CDA 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 CDA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the CDA chooses to pay the utility supplier directly, the CDA must notify the family of the amount paid to the utility supplier.

CDA Policy

The CDA will make utility reimbursements to the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

Except for 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 the owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

(FILL OUT ONE FOR EACH DEVELOPMENT)

Date: [Enter the date on which this form was completed]

DEVELOPMENT INFORMATION

Development Name: [Insert name of PBV development]
Address: [Insert full address of PBV development]
Owner Information: [Insert PBV development owner name and contact information. If development is CDA-owned, enter "CDA-owned."]
Property Management Company: [Insert property management company name and contact information, or enter "None"]
CDA-Owned: [Enter "Yes" or "No." If yes, enter name of independent entity]
Mixed Finance Development: [Enter "Yes" or "No." If yes, list other types of funding (i.e., LIHTC, HOME, etc.) and units to which other funding applies.]

HAP CONTRACT

Effective Date of Contract: [Enter start date of HAP contract]
HOTMA Requirements: [If HAP contract was signed prior to April 18, 2017, enter "Pre-HOTMA." If HAP contract was signed on or after April 18, 2017, enter "Post-HOTMA."]
Term of HAP Contract: [Enter term from HAP contract]
Expiration Date of Contract: [Enter expiration date from HAP contract]

PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units							
Initial Contract Rent	$	$	$	$	$	$	

Structure Type: [Identify the structure type, i.e. Single Family Detached, Duplex or Two Family, Row House or Town House, Low Rise (3,4 Stories, including Garden Apartment), Highrise (5 or more stories)

Housing Type: [Identify if the units are an Independent Group Residence or Single Room Occupancy]

UTILITY RESPONSIBILITY
[Enter in Accordance with the HAP Exhibit C]

Utility	Fuel Type (Gas, Electric, Oil, Coal, Other)	Paid By (Tenant/Owner)	Provided By (Tenant/Owner)
Heating	Electric	Tenant	Owner
Cooking	Electric	Tenant	Owner
Water Heating	Electric	Tenant	Owner
Other Electric		Tenant	Owner
Water		Owner	Owner
Sewer		Owner	Owner
Trash Collection		Owner	Owner
Air Conditioning		Tenant	Owner
Refrigerator			
Range/Microwave			
Other (specify)			

Accessible Units and Features: [Identify which units are accessible and describe accessibility features or enter "None"]
Target Population: [Describe targeted population in accordance with HAP contract or enter "None"]
Excepted Units: [Identify excepted unit types below or enter "None"]

- **Supportive Services:** [Enter "Yes, see Exhibit D of HAP Contract" or enter "No"]
- **Elderly Units**: [Enter "Yes" or "No." If yes, identify which units are elderly units.]
- **Disabled Units** (only for HAP contracts executed prior to April 18, 2017) [Enter "Yes" or "No." If yes, identify which units are for persons with disabilities.]
- **FUPY/FYI Units:** [Enter "Yes" or "No." If yes, identify which units are FUP units]
- **Are units excepted because they are located in a low-poverty census tract area?:** [Enter "Yes" or "No"]

WAITING LIST AND SELECTION

Waiting List Type: [Enter "Site-based waiting list," "Combined with HCV," "Waiting list for entire PBV program," or "Merged with another assisted housing program"]
Preferences: [Enter "Same as HCV; see Chapter 4" or describe preferences offered. If different from HCV, also note in Section 17.1.B of this policy.]
Preference Verification: [Enter "Same as HCV; see Chapter 7" or describe for each preference listed above. If different from HCV, note in Section 17.1.B of this policy.]
For the PBV program, is the income limit the same as the HCV program? (Note: In mixed finance developments, other income limits may also apply.) [Enter "Same as HCV; see Chapter 3" or clearly describe. If different from HCV, note in Section 17.1.B of this policy.]

OCCUPANCY

Subsidy Standards: [Enter "Same as HCV; see Chapter 5" or describe. If different from HCV, note in Section 17.1.B of this policy]
Vacancy Payments: [Enter in accordance with HAP contract Part 1, e, 2 and Section 17-V.F. within this chapter]

EXHIBIT 17-2: SPECIAL PROVISIONS APPLYING TO TPVS AWARDED AS PART OF A VOLUNTARY CONVERSION OF PUBLIC HOUSING UNITS IN PROJECTS THAT INCLUDE RAD PBV UNITS

[24 CFR Part 972.200; Notice PIH 2019-05; Notice PIH 2019-23]

Under certain circumstances, HUD allows small CDAs to reposition a public housing project (or portion of a project) by voluntarily converting units to tenant-based housing choice voucher assistance. In order to preserve affordable housing for residents of the project, the CDA is given priority to receive replacement tenant protection vouchers (TPVs). As part of the voluntary conversion, the CDA has the option to continue to operate it as rental housing. If so, the CDA or subsequent owner must allow existing families to remain in their units using the TPV in the form of tenant-based assistance. In this situation, however, the CDA may choose to project-base these TPVs in the former public housing project. Families must still be provided with the option to remain in their unit using tenant-based assistance. In order for the CDA to project-base the assistance and include these units on the PBV HAP contract, the family must voluntarily consent in writing to PBV assistance following the requirements in Appendix A of Notice PIH 2019-05. If the family fails to consent to PBV assistance and chooses to remain using tenant-based assistance, the family's unit is excluded from the PBV HAP contract until the family moves out or consents to switching to PBV assistance. In general, all applicable program regulations and guidance for the standard PBV program apply to these units.

The CDA may also convert units in the same former public housing project to the PBV program under the rental assistance demonstration (RAD) program. The RAD statute authorizes HUD to waive certain statutory and regulatory provisions governing the standard PBV program and specify alternative requirements. In order to facilitate the uniform treatment of residents and units at the project, Notice PIH 2019-23 extended some of the alternative requirements to non-RAD PBV units in the converted project (i.e., the TPV units in the project). As such, while PBV TPV units in the converted project generally follow the requirements for the standard PBV program listed in this chapter, where HUD has specified alternative requirements for non-RAD PBV units in the project, PBV TPV units will instead follow the requirements outlined in Chapter 18 of this policy for the RAD PBV program.

RAD Requirements Applicable to Non-RAD units in the Project

Alternative Requirement under RAD as Listed in Notice PIH 2019-23	Standard PBV Policy That Does Not Apply	Applicable Policy in Chapter 18
1.6.A.4. Site Selection – Compliance with PBV Goals	17-II.G. SITE SELECTION STANDARDS applies with the exception of deconcentration of poverty and expanding housing and economic opportunity requirements.	18-II.F. SITE SELECTION STANDARDS
1.6.B.5.d. PBV Site-Specific Utility Allowances	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-VII.C. UTILITY ALLOWANCES
1.6.C.1. No Rescreening of	Policies contained in	18-V.B. PROHIBITED

Tenants upon Conversion	Chapter 3 relating to eligibility do not apply to existing tenants who receive TPVs.	RESCREENING OF EXISTING TENANTS UPON CONVERSION
1.6.C.2. Right to Return	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-I.D. RELOCATION REQUIREMENTS
1.6.C.3. CDAse-in of Tenant Rent Increases	Alternative requirements under RAD. No corresponding policy in Chapter 17.	18-VIII.D. CDASE-IN OF TENANT RENT INCREASES
1.6.C.4. Family Self Sufficiency (FSS) and Resident Opportunities and Self-Sufficiency Service Coordinator (ROSS-SC) Programs	Not covered in administrative plan.	18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS
1.6.C.5. Resident Participation and Funding	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-VI.D. RESIDENT PARTICIPATION AND FUNDING
1.6.C.6. Resident Procedural Rights	Policies related to hearings in Chapter 16 apply, with added procedural rights and notice requirements as outlined in Chapter 18.	18-VI.H. RESIDENTS' PROCEDURAL RIGHTS
1.6.C.7. Earned Income Disregard (EID)	Alternative requirements under RAD for in-place residents. New admissions follow policies in Chapter 6.	18-VI.G. EARNED INCOME DISALLOWANCE
1.6.C.8. Jobs Plus	Not covered in administrative plan.	No corresponding policy.
1.6.C.9. When Total Tenant Payment Exceeds Gross Rent	Alternative requirements under RAD for in-place residents. New admissions follow policies in 17-VII.B. LEASE, Continuation of Housing Assistance Payments.	18-VI.B. LEASE, Continuation of Housing Assistance Payments
1.6.C.10. Under-Occupied Unit	Alternative requirements under RAD for in-place residents.	18-VI.E. MOVES, Overcrowded, Under-Occupied, and Accessible Units

	New admissions follow 17-VII.C. MOVES, Overcrowded, Under-Occupied, and Accessible Units	
1.6.D.4. Establishment of Waiting List	Alternative requirements under RAD for initial establishment of the waiting list. Once waiting list is established, follow 17-VI.D. SELECTION FROM THE WAITING LIST	18-V.D. ORGANIZATION OF THE WAITING LIST
1.6.D.10. Initial Certifications and Tenant Rent Calculations	Alternative requirements under RAD for in-place residents. No corresponding policy in Chapter 17.	18-VIII.C. TENANT RENT TO OWNER, Initial Certifications

Note, while Notice PIH 2019-05 states that the CDA must screen families for eligibility for a tenant protection voucher and that families must be below the low-income limit (80 percent of AMI), Notice PIH 2019-23 waives these requirements for residents in projects that include RAD PBV units.

CHAPTER 18

TARGETED RENTAL ASSISTANCE

INTRODUCTION

The CDA administers several rental assistance programs which are targeted at specific populations.

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. Special purpose vouchers include vouchers for the following programs:

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

CDA Policy

The CDA will administer the following types of special purpose vouchers:

This chapter describes HUD regulations and CDAA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into five sections, as follows:

Part I: Family Unification Program (FUP)

Part II: Veterans Affairs Supportive Housing (VASH)

Part III: Mainstream voucher program

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special purpose vouchers.

This Chapter covers all other federal, state and locally funded rental assistance programs. For these programs, all other policies described in the Administrative Plan are applicable, except as described in this Chapter or another program guide.

Part VI: Lincoln Place

Part V: Emergency Housing Vouchers (EHV's)

PART I: FAMILY UNIFICATION PROGRAM

18-I.A. OVERVIEW

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. CDAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

Youth eligible for FUP are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

CDAs that wish to administer FUP vouchers must apply to HUD by applying under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the CDA must also form a partnership with a local PCWA who is responsible for determining if the family or youth meets FUP eligibility requirements and referring them to the CDA. Once the referral is received, the CDA is responsible for placing the FUP family or youth on the CDA's waiting list and determining whether they are eligible to receive assistance under the CDA's HCV program.

Assigning Vouchers [FUP FAQs]

The CDA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths and FUP families. Unless the CDA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the CDA must serve any referrals (youths or families) that meet all program eligibility requirements up to the CDA's designated FUP program size.

CDA Policy

The CDA has not designated any specific number or percentage of FUP vouchers for youths or families. The CDA will serve all referrals that meet program eligibility requirements, up to the CDA's FUP voucher allocation.

18-I.B. PARNTERING AGENCIES [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar]

Public Child Welfare Agency (PCWA)

Families and youth do not apply directly to the CDA for FUP vouchers. They are instead referred by a PCWA with whom the CDA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 18-I.C and 18-I. D and then refers those families or youths to the CDA.

HUD strongly encourages CDAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

CDA Policy

The CDA has entered into an MOU with the following partnering organization: Dakota County Community Services.

Supportive Services

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the CDA and the PCWA should identify the period of time in which supportive services will be provided.

CDA Policy

The PCWA will provide supportive services for all FUP youth for a period of not less than 18 months.

Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the CDA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

CDA Policy

Additional supportive services will not be offered.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

18-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

Lack of adequate housing means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
  - Does not have operable indoor plumbing
  - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
  - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
  - Does not have electricity, or has inadequate or unsafe electrical service
  - Does not have a safe or adequate source of heat
  - Should, but does not, have a kitchen
  - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
  - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability
- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
  - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
  - The family is living with its child or children in a unit that is overcrowded for the entire

family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.

- For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the CDA subsidy standards in Chapter 5, Part III of this policy.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

18-I.D. FUP YOUTH VOUCHER ELIGIBILTY CRITERIA [Notice PIH 2023-04; FYI Q&As; FYI FAQs]

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

Eligibility Criteria

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday);
  - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
    - Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below 30 percent of area median income; and
- Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

18-I.E. ASSISTANCE PERIOD [FR Notice 1/24/22]

Maximum Assistance Period

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance,

the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

Extension of Assistance

FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meet one of the statutory exceptions described below).

Statutory Exceptions

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the CDA's FSS program if they certify that they meet one of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

  CDA Policy

  The CDA defines *incapacitated person* as an individual who, for reasons other than being a minor, is impaired to the extent of lacking sufficient understanding or capacity to make personal decisions, and who is unable to meet personal needs for medical care, nutrition, clothing, shelter, or safety, even with appropriate technological and supported decision-making assistance.

  The CDA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

  The FUP youth will be required to self-certify that they meet this exception on a CDA-provided form. This certification is the only documentation that FUP youth must submit.

  The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.

- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

  CDA Policy

  The CDA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

  The FUP youth will be required to self-certify that they meet this exception on a CDA-

provided form. This certification is the only documentation that FUP youth must submit.

- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

  CDA Policy

  The CDA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

  The FUP youth will be required to self-certify that they meet this exception on a CDA-provided form. This certification is the only documentation that FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the CDA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

Education, Workforce Development, or Employment Activities

If a CDA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

  CDA Policy

  The CDA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

  CDA Policy

  Youth must be enrolled in educational activities on at least a half-time basis, as defined by the institution that they attend. However, the CDA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

- The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:
  - Aligns with the skill needs of industries in the economy of the state or regional economy involved;
  - Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in section 3226 of this title);
  - Includes counseling to support an individual in achieving the individual's education and career goals;
  - Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
  - Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
  - Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
  - Helps an individual enter or advance within a specific occupation or occupational cluster.

- The youth was employed.

  CDA Policy

  The CDA will consider the youth to be employed if they work a minimum of 20 hours per week. The CDA may make exceptions to this requirement if the youth's hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, HUD encourages the CDA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described

above so that the youth has enough time to meet these requirements prior to the expiration of the 36-month time period for FUP assistance.

CDA Policy

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, the CDA will remind the youth at their second regular reexam of the education, workforce development, and employment requirements described above.

FSS Enrollment Between 36 and 48 Months

If an FSS slot becomes available between the 36-month and 48-month mark:

- The CDA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The CDA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If FUP youth accepts the FSS slot, the CDA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been "unable to enroll" in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

FSS Enrollment After 48 Months

The CDA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension.

CDA Policy

If an FSS slot becomes available between the 48 and 60-month marks, the CDA will not offer the FSS slot to a FUP youth.

Extensions of Assistance

At the 36-month and 48-month reexamination, the CDA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program if the youth is still eligible for the HCV program.

In any case, the FUP youth cannot receive more than a total of 60 months of FUP youth voucher

assistance, even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

No FSS Program or Unable to Enroll in FSS

If a CDA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the educations, workforce

development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

Verification Prior to Annual Reexam

In order to provide an extension of assistance, the CDA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The CDA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the CDA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the CDA to conduct an annual reexamination prior to the expiration of the FUP assistance.

CDA Policy

The CDA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FUP youth's scheduled annual reexamination. The CDA will not verify compliance at the end of the 60-month time period.

The CDA will provide each FUP youth on the CDA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, the CDA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 2.

The CDA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the CDA will examine its records to confirm, or obtain confirmation from the CDA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the

CDA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable.

Due to the timing of when the CDA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the CDA that they meet one of these exceptions. This certification is the only documentation that FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the CDA determines that the youth meet one of the statutory conditions, the CDA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the CDA must provide the FUP youth with the extension of voucher assistance.

Termination of Assistance for Failure to Meet Conditions

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reach this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the CDA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 16.

18-I.F. REFERRALS AND WAITING LIST MANAGEMENT [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar FYI FAQs]

Referrals

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the CDA. The PCWA must certify that the FUP applicants they refer to the CDA meet FUP eligibility requirements. The CDA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as

determined by the PCWA but should keep the referral or certification from the PCWA.

CDA Policy

As part of the MOU, the CDA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the CDA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide the CDA with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The CDA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

The CDA must serve any referrals (youths or families) that meet all program eligibility requirements. If the CDA determines that it has received a sufficient number of referrals from the PCWA so that the CDA will be able to lease all FUP vouchers awarded, the CDA may request that the PCWA suspend transmission of referrals. If the CDA determines that additional referrals will be needed after it has made such a request, the CDA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

Waiting List Placement [Notice PIH 2023-04 and FYI FAQs]

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

Once a referral is made, the CDA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the CDA's HCV waiting list. Applicants already on the CDA's HCV waiting list retain the order of their position on the list. Applicants not already on the CDA's HCV waiting list must be placed on the HCV waiting list.

If the CDA's HCV waiting list is closed, the CDA must open its HCV waiting list in order to accept new FUP applicants. If necessary, the CDA may open its waiting list solely for FUP applicants, but this information must be included in the CDA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

CDA Policy

Within 10 business days of receiving the referral from the PCWA, the CDA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

For those referrals not already on the waiting list, the CDA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the CDA will place the referral on the HCV waiting list with the date

and time of the original referral and an indication that the referral is FUP-eligible.

Waiting List Selection

The CDA selects FUP-eligible families or youths based on the CDA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

18-I.G. CDA HCV ELIGIBILITY DETERMINATION

Once a FUP-eligible family or youth is selected from the HCV waiting list, the CDA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the CDA on the family's criminal history.

CDA Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the CDA.

The CDA will consider the information in making its eligibility determination in accordance with the CDA's policies in Chapter 3, Part III.

Additional FUP Eligibility Factors [FUP FAQs]

For FUP family vouchers, the family must remain FUP-eligible through lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the CDA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the CDA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the CDA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

CDA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the CDA in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

18-I.H. LEASE UP [FR Notice 1/24/22]

Once the CDA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with CDA policies.

During the family briefing, the CDA must inform the FUP youth of:

- The extension of assistance provisions and requirements;

- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the CDA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

CDA Policy

Eligible applicants will be notified by the CDA in writing following policies in Section 3-III.F. of this administrative plan. FUP families and youth will participate in a standard HCV briefing in accordance with CDA policies in Part I of Chapter 5 of this administrative plan. The CDA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

For both FUP youth and FUP families, vouchers will be issued in accordance with CDA policies in Chapter 5 Part II.

Once the family or youth locate a unit, the CDA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the CDA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

18-I.I. TERMINATION OF ASSISTANCE

General Requirements

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with CDA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on CDA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

FUP Family Vouchers

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the CDA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

CDA Policy

The CDA will transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

If the CDA has no regular HCV vouchers available at the time this determination is made,

including if no vouchers are available due to lack of funding, the CDA will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

FUP Youth Vouchers

The CDA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the CDA terminate assistance for a FUP youth for not accepting services from the PCWA.

The CDAA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the CDAA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with CDA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

CDA Policy

The CDAA will not provide a selection preference on the CDA's HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the CDA's HCV program.

18-I.J. FUP PORTABILITY

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. The CDA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving CDA administers the FUP voucher on behalf of the initial CDA, the voucher is still considered a FUP voucher regardless of whether the receiving CDA has a FUP program.

If the receiving CDA absorbs the voucher, the receiving CDA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving CDA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving CDA absorbs the voucher, a FUP voucher becomes available to the initial CDA.

Considerations for FUP Youth Vouchers

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving CDA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving CDA is administering the FUP youth voucher on behalf of the initial CDA, the two CDAs must work together to initiate termination upon expiration of the statutorily required time period.

18-I.K. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 1/24/22]

The CDA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The CDA may limit PBVs to one category of FUP-eligible participants (families or youth) or a combination of the two.

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the CDA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The CDA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

CDA Policy

The CDA will not project base FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

PART II: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

18-II.A. OVERVIEW

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner CDA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to the CDA;
  - The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.
- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to CDA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and CDA administrative performance. Eligible CDAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible CDAs to apply for a specified number of vouchers.

Generally, the HUD-VASH program is administered in accordance with regular HCV program

requirements. However, HUD is authorized to waive or specify alternative requirements to allow CDAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, the CDA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. 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 and all CDA policies as outlined in Chapter 2 of this document.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

18-II.B. REFERRALS [FR Notice 9/27/21 and HUD-VASH Qs and A's]

VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to the CDA for determination of program eligibility and voucher issuance. The CDA has no role in determining or verifying the veteran's eligibility under VA screening criteria,

including determining the veteran's homelessness status. The CDA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

CDA Policy

In order to expedite the screening process, the CDA will provide all forms and a list of documents required for the VASH application to the VAMC. Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with the CDA and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to the CDA prior to the meeting in order to allow the CDA time to review them and start a file for the veteran.

After the VAMC has given the CDA a complete referral, the CDA will perform an eligibility screening within five business days of receipt of a VAMC referral.

18-II.C. HCV PROGRAM ELIGIBILITY [FR Notice 9/27/21]

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.

- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, CDAs do not have authority to determine family eligibility in accordance with HCV program rules and CDA policies. The only reasons for denial of assistance by the CDA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving CDA must also comply with these VASH screening requirements.

Social Security Numbers

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Section 7-II.B. of this policy.

In the case of the homeless veteran, the CDA 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 Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

Proof of Age

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other CDA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

Photo Identification

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

Income Eligibility

The CDA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Section 3-II.A. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

While income-targeting does not apply to VASH vouchers, the CDA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

CDA Policy

While income-targeting requirements will not be considered by the CDA when families are referred by the partnering VAMC, the CDA will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

Screening

The CDA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: the CDAs is still required to prohibit admission if any member of the household is subject to a lifetime registration

requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and CDA policies on how sex offender screenings will be conducted, CDA policy in Sections 3-III.B. through 3-III.E. do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [New HCV GB, *HUD-VASH,* p. 6].

Denial of Assistance [Notice PIH 2008-37]

Once a veteran is referred by the VAMC, the CDA must either issue a voucher or deny assistance. If the CDA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

18-II.D. CHANGES IN FAMILY COMPOSITION

Adding Family Members [FR Notice 9/27/21]

When adding a family member after the family has been admitted to the program, CDA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, the CDA must approve additional family members and will apply its regular screening criteria in doing so.

Remaining Family Members [HUD-VASH Qs and As]

If the homeless veteran dies while the family is being assisted, the voucher will remain with the remaining members of the tenant family. The CDA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

Family Break Up [HUD-VASH Qs and As]

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides the CDA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

18-II.E. LEASING [FR Notice 9/27/21]

Waiting List

The CDA does not have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Policies in Chapter 4 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

Exception Payment Standards

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows CDAs to establish a HUD-VASH exception payment standard. CDAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair

market rent (SAFMR) specifically for VASH families. CDAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

Voucher Issuance

Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. CDA policies on extensions as outlined in Section 5-II.E. will apply.

CDA Policy

All VASH vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the CDA grants an extension.

The CDA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

Initial Lease Term

Unlike in the standard HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, CDA policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

Ineligible Housing [FR Notice 6/18/14]

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, CDA policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

HQS Pre-Inspections

To expedite the leasing process, CDAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

CDA Policy

To expedite the leasing process, the CDA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved if it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, the CDA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspection.

18-II.F. PORTABILITY [FR Notice 9/27/21 and Notice PIH 2011-53]

General Requirements

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial CDA when they applied. As a result, CDA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

Portability within the Initial VAMC or DSP's Catchment Area

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial CDA's partnering VAMC will still provide the case management services, the receiving CDA must process the move in accordance with portability procedures:

- If the receiving CDA has been awarded VASH vouchers, it can choose to either bill the initial CDA or absorb the family if it has a VASH voucher available to do so.
  - If the CDA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving CDA does not administer a VASH program, it must always bill the initial CDA.

Portability Outside of the Initial VAMC or DSP's Catchment Area

If a family wants to move to another jurisdiction where it will not be possible for the initial CDA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMS or DSP that is participating in the VASH program, and the receiving CDA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving CDA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial CDA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving CDA.

Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. The initial CDA must follow its emergency transfer plan (see Exhibit 16-3). CDAs may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a CDA that has a VASH program. If the receiving CDA does not have a VASH voucher available to lease, they may bill the initial CDA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving CDA's program.

18-II.G. TERMINATION OF ASSISTANCE [FR Notice 9/27/21]

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages CDAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering 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.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to the CDA but could not be considered at the time of admission due to VASH program requirements. The CDA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

Cessation of Case Management

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, the CDA may offer the family continued assistance through one of its regular vouchers. If the CDA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as the CDA has an available voucher for the family.

VAWA [FR Notice 9/27/21]

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

18-II.H. PROJECT-BASING VASH VOUCHERS

General Requirements [Notice PIH 2017-21 and FR Notice 9/27/21]

CDAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements

provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If the CDA project-bases VASH vouchers, the CDA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. CDAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The CDA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the CDA and there is an available PBV unit that is not exclusively made available to VASH families, the CDA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and CDA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The CDA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the CDA first consults with the VAMC or DSP. Additionally, the CDA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the CDA's program and project caps).

Policies for VASH PBV units will generally follow CDA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

Failure to Participate in Case Management [FR Notice 9/27/21]

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the CDA must provide the family a reasonable time period to vacate the unit. The CDA must terminate assistance to the family at the earlier of either the time the family vacates, or the expiration of the reasonable time period given to vacate.

CDA Policy

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, the CDA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

The CDA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the CDA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially

assisted. The CDA may add the removed unit to the HAP contract after the ineligible family vacates the property.

Moves [HUD-VASH Qs and As, FR Notice 9/27/21]

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the CDA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the CDA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the CDA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the CDA and owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, the CDA must allow the family to move with the first available tenant-based voucher if not VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

PART III: MAINSTREAM VOUCHER PROGRAM

18-III.A. PROGRAM OVERVIEW [Notice PIH 2020-01]

Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. The CDA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, the CDA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and CDAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any CDA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those CDAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

Funds for Mainstream vouchers may be recaptured and reallocated if the CDA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for the CDA's Mainstream vouchers.

18-III.B. ELIGIBLE POPULATION [Notice PIH 2020-01 and Notice PIH 2020-22]

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

The CDA may not implement eligibility screening criteria for Mainstream vouchers that are different from that of the regular HCV program.

18-III.C. PARTNERSHIP AND SUPPORTIVE SERVICES [Notice PIH 2020-01]

CDAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

CDA Policy

The CDA will implement a Mainstream program, in partnership with several community partners.

18-III.D. WAITING LIST ADMINISTRATION

General Waiting List Requirements [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

CDAs must not have a separate waiting list for Mainstream voucher assistance since the CDA is required by the regulations to maintain one waiting list for tenant-based assistance [24 CFR 982.204(f)]. All CDA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Chapter 4, apply to the Mainstream program.

When the CDA is awarded Mainstream vouchers, these vouchers must be used for new admissions to the CDA's program from the waiting list. The CDA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. CDAs are not permitted to reassign existing participants to the program in order to make regular tenant-based vouchers available. Further, the CDA may not skip over Mainstream-eligible families on the waiting list because the CDA is serving the required number of Mainstream families.

Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, the CDA must determine if the families at the top of the waiting list qualify under program requirements.

Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]

If the CDA claimed points for a preference in a NOFA application for Mainstream vouchers, the CDA must adopt a preference for at least one of the targeted groups identified in the NOFA.

CDA Policy

The CDA claimed a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA. The CDA will offer the following preference:

- Transitioning out of institutional or segregated settings, or;
- At serious risk of institutionalization due to a public entity's failure to provide community services or its cuts to services will likely cause a decline in health, safety or welfare that would lead to the individual's eventual placement in an institution, or;
- Homeless or will imminently lose their primary residence, or;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against an individual, or a family member, that has either taken place within the primary residence or has made the individual afraid to return to the primary residence. The person must have no other residence or lack the resources or support networks to obtain permanent housing, or;
- In permanent housing or rapid rehousing projects who no longer need the level of services provided.

18-III.E. VOUCHER ISSUANCE [Notice PIH 2024-30]

Term

Many Mainstream Voucher applicants face challenges in their housing search. Tight rental markets coupled with specific unit needs (e.g., accessible units, units near medical or supportive services, units near public transit, units meeting other disability-related needs, etc.) may require applicants to need additional time to search for a suitable unit. HUD is waiving 24 Code of Federal Regulations (CFR) 982.303(a), which requires an initial search term of at least 60 days, and establishing an alternative requirement that the initial search term for a Mainstream Voucher must be at least 120 days. The initial 120-day term also applies when a family chooses to move to a new unit with continued assistance inside or outside the CDA's jurisdiction, in accordance with 24 CFR 982 subpart H.

Extensions

National voucher success rates and median search times indicate that, on average, Mainstream Voucher applicants take longer to lease than HCV applicants and are more likely to ultimately be unsuccessful in using their voucher compared to other special purpose voucher applicants. Given the challenges Mainstream Voucher applicants may face in securing a unit, applicants should be provided with flexible extension policies. To support this need, HUD is waiving 24 CFR 982.303(b)(1) and establishing an alternative requirement for the process of requesting search extensions. CDAs must adopt an extension policy for Mainstream Vouchers.

CDA Policy

1. The CDA, on at least one occasion after voucher issuance, will notify the family prior to the initial voucher term expiration, of the expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search.
2. Each extension will be approved for 90 days.
3. The CDA must approve the first extension request, regardless of how the request is made (written or verbal) or when it is made, if the request is made on or before the voucher expiration date and is consistent with applicable requirements. Subsequent requests will be processed in accordance with the CDA's HCV administrative plan.

18-III.F. PORTABILITY [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

Mainstream voucher participants are eligible for portability under standard portability rules and all CDA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving CDA has a Mainstream voucher available, the participant may remain a Mainstream participant.
  - If the receiving CDA chooses to bill the initial CDA, then the voucher will remain a Mainstream voucher.
  - If the receiving CDA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving CDA has a Mainstream voucher available, and the Mainstream voucher at the initial CDA will be freed up to lease to another Mainstream-eligible family.
- If the receiving CDA does not have a Mainstream voucher available, the participant may receive a regular voucher.

18-III.F. PROJECT-BASING MAINSTREAM VOUCHERS [FY19 Mainstream Voucher NOFA Q&A]

The CDA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and CDA policies in Chapter 17. The CDA is responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

PART IV: LINCOLN PLACE

18-IV.A. OVERVIEW

The CDA owns and manages a 24-unit permanent supportive housing development for young adults. The CDA has committed to providing tenant-based rental assistance to five residents using CDA Special District Levy funds. Rental assistance will be administered in accordance with the Lincoln Place Admissions and Continued Occupancy Plan (ACOP).

The CDA will apply the policies in this Plan that are not addressed in the Lincoln Place ACOP.

PART V: EMERGENCY HOUSING VOUCHERS (EHVs)

18-V.A. INTRODUCTION

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated $5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible CDAs and set forth the operating requirements for CDAs who administer them. Based on criteria outlined in the notice, HUD notified eligible CDAs of the number of EHVs allocated to their agency, and CDAs were able to accept or decline the invitation to participate in the program.

CDAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the CDA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and CDA policies for administering EHVs. The policies outlined in this chapter are organized into seven sections, as follows:

Part I: Funding

Part II: Partnering Agencies

Part III: Waiting List Management

Part IV: Family Eligibility

Part V: Housing Search and Leasing

Part VI: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.

PART I:FUNDING

18-I.A. FUNDING OVERVIEW

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other CDA programs or vouchers. The CDA must maintain separate financial records from its regular HCV funding for all EHV funding.

Housing Assistance Payments (HAP) Funding

ARP funding obligated to the CDA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the

CDA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the CDA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

Administrative Fee and Funding

The following four types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that the CDA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
  - $400 per EHV allocated to the CDA, once the consolidated annual contributions contract (CACC) is amended.
  - This fee may be used for any eligible administrative expenses related to EHVs.
  - The fee may also be used to pay for any eligible activities under EHV service fees (TPS-I.B).
- **Placement fees/expedited issuance reporting fees** will support initial lease-up costs and the added cost and effort required to expedite leasing of EHVs:
  - $100 for each EHV initially leased, if the CDA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
  - Placement fees:
    - $500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
    - $250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
    - HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
  - Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
- **Ongoing administrative fees,** which are calculated in the same way as the standard HCV program:
  - CDAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
  - Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.
- **Services fees,** which are a one-time fee to support CDAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):
  - The fee is allocated once the CDA's CACC is amended to reflect EHV funding.
  - The amount allocated is $3,500 for each EHV allocated.

18-I.B. SERVICE FEES

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance.
- Security deposit/utility deposit/rental application/holding fee uses.
- Owner-related uses.
- Other eligible uses such as moving expenses or tenant-readiness services.

The CDA must establish the eligible uses and the parameters and requirements for service fees in the CDA's administrative plan.

CDA Policy

The eligible uses for service fees include:

Housing search assistance, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and CDA forms, and helping to expedite the EHV leasing process for the family.

Application fees/non-refundable administrative or processing fees/refundable application deposit assistance. The CDA may choose to assist the family with some or all of these expenses.

Holding fees are fees an owner requests that are rolled into the security deposit after an application is accepted but before a lease is signed. The CDA may cover part or all of the holding fee for units where the fee is required by the owner after a resident's application has been accepted but before the lease signing. The CDA and owner must agree how the holding fee gets rolled into the deposit, and under what conditions the fee will be returned. In general, owners need to accept responsibility for making needed repairs to a unit required by the initial housing quality standards (HQS) inspections and can only keep the holding fee if the client is at fault for not entering into a lease.

Security deposit assistance. The amount of the security deposit assistance may not exceed the lesser of two months' rent to owner, the maximum security deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner. The CDA may pay the security deposit assistance directly to the owner or may pay the assistance to the family. If paid to the family, the CDA will require documentation that the family paid the security deposit.

Owner recruitment and outreach for EHVs. The CDA may use the service fee funding to conduct owner recruitment and outreach specifically for EHVs. In addition to traditional owner recruitment and outreach, activities may include conducting pre-inspections or otherwise expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

Owner incentive and/or retention payments. The CDA may make incentive or retention payments to owners that agree to initially lease their unit to an EHV family and/or renew the lease of an EHV family.

Payments will be made as a single payment at the beginning of the assisted lease term (or lease renewal if a retention payment). Owner incentive and retentions payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable.

Moving expenses (including move-in fees, household necessities and deposits). The CDA may provide assistance for some or all of the family's reasonable moving expenses when they initially lease a unit with the EHV. The CDA will not provide moving expenses assistance for subsequent moves unless the family is required to move for reasons other than something the family did or failed to do (e.g., the CDA is terminating the HAP contract because the owner did not fulfill the owner responsibilities under the HAP contract or the owner is refusing to offer the family the opportunity to enter a new lease after the initial lease term, as opposed to the family choosing to terminate the tenancy in order to move to another unit), or a family has to move due to domestic violence, dating violence, sexual assault, or stalking.

Tenant-readiness services. The CDA may use fees to help create a customized plan to address or mitigate barriers that individual families may face in renting a unit with an EHV, such as negative credit, lack of credit, negative rental, or utility history, or to connect the family to other community resources (including COVID-related resources) that can assist with rental arrears.

Any services fee assistance that is returned to the CDA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the CDA's EHV program ends must be remitted to HUD.

PART II: PARTNERING AGENCIES

18-II.A. CONTINUUM OF CARE (CoC)

CDAs that accept an allocation of EHVs are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHVs.

CDA Policy

As required, the CDA's MOU with the local CoC, is Suburban Metro Area Continuum (SMAC).

18-II.B. OTHER PARTNERING ORGANIZATIONS

The CDA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If the CDA chooses to partner with such agencies, the CDA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the CDA and CoC.

CDA Policy

The CDA is also partnering with Dakota County Social Services.

18-II.C. REFERRALS

CoC and Partnering Agency Referrals

The primary responsibility of the CoC under the MOU with the CDA is to make direct referrals of qualifying individuals and families to the CDA. The CDA must generally refer a family that is seeking EHV assistance directly from the CDA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHVs. The CoC or other direct referral partner must provide supporting documentation to the CDA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

CDA Policy

SMAC must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to the CDA. SMAC must certify that the EHV applicants they refer to the CDA meet at least one of the four EHV eligibility criteria. The CDA will maintain a copy of the referral or certification from SMAC in the participant's file along with other eligibility paperwork. Homeless service providers may,

but are not required to, use the certification form found in Exhibit TPS-1 of this chapter. Victim services providers may, but are not required to, use the certification form found in Exhibit TPS-2 of this chapter when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, the CDA and SMAC will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. SMAC must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

The CDA liaison responsible for acceptance of referrals will contact SMAC via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date SMAC receives this notification, SMAC will provide the CDA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

Offers of Assistance with CoC Referral

The CDA may make an EHV available without a referral from SMAC in order to facilitate an emergency transfer under VAWA in accordance with the CDA's Emergency Transfer Plan (ETP) in Chapter 16.

The CDA must also take direct referrals from outside SMAC if:

- SMAC does not have enough eligible families to refer to the CDA; or
- SMAC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the CDA is not receiving enough referrals or is not receiving referrals in a timely manner from SMAC (or the CDA and SMAC cannot identify any such alternative referral partner agencies), HUD may permit the CDA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

PART III: WAITING LIST MANAGEMENT

18-III. A. HCV WAITING LIST

The regulation that requires the CDA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to CDAs operating the EHV program. Direct referrals are not added to the CDA's HCV waiting list.

The CDA must inform families on the HCV waiting list of the availability of EHVs by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

CDA Policy

The CDA will post information about the EHV program for families on the CDA's HCV waiting list on their website. The notice will:

Describe the eligible populations to which EHVs are limited.

Clearly state that the availability of these EHVs is managed through a direct referral process.

Advise the family to contact SMAC if the family believes they may be eligible for EHV assistance.

The CDA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The CDA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

18-III.B. EHV WAITING LIST

The HCV regulations requiring the CDA to operate a single waiting list for admission to the HCV program do not apply to CDAs operating the EHV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the EHVs available, the CDA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to CDA policies in Chapter 4 regarding opening and closing the HCV waiting list. The CDA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

18-III.C. PREFERENCES

HCV Waiting List Preferences

If local preferences are established by the CDA for HCV, they do not apply to EHVs. However, if the CDA has a homeless preference or a VAWA preference for the HCV waiting list, the CDA must adopt additional policies related to EHVs in accordance with Notice PIH 2021-15.

CDA Policy

The CDA does not offer either a homeless or a VAWA preference for the HCV waiting list.

EHV Waiting List Preferences

With the exception of a residency preference, the CDA may choose, in coordination with the CoC

and other referral partners, to establish separate local preferences for EHVs. The CDA may, however, choose to not establish any local preferences for the EHV waiting list.

CDA Policy

No local preferences have been established for the EHV waiting list.

PART IV: FAMILY ELIGIBLTY

18-IV.A. OVERVIEW

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to the CDA. The CDA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

18-IV.B. REFERRING AGENCY DETERMINATION OF ELIGIBLITY

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to the CDA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The CDA must retain this documentation as part of the family's file.

18-IV.C. CDA SCREENING

Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, CDA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the CDA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Mandatory Denials

Under alternative requirements for the EHV program, mandatory denials for EHV applicants

include:

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

The CDA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

CDA Policy

While the CDA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the CDA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

Permissive Denial

Notice PIH 2021-15 lists permissive prohibitions for which the CDA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the CDA intends to establish permissive prohibition policies for EHV applicants, the CDA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

CDA Policy

The CDA will apply permissive prohibition to the screening of EHV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance with policies in Section 3-III.E.

The CDA will establish the following permissive prohibitions:

If the CDA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:

Violent criminal activity

Other 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.

If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous 12 months.

If the family engaged in or threatened abusive or violent behavior toward CDA personnel within the previous 12 months.

The CDA will also deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

Prohibitions based on criminal activity for the eligible EHV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2021-15, the CDA will not deny an EHV applicant admission regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years;

A CDA has ever terminated assistance under the program for any member of the family;

The family currently owes rent or other amounts to the CDA or to another CDA in connection with Section 8 or public housing assistance under the 1937 Act;

The family has not reimbursed any CDA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;

The family breached an agreement with the CDA to pay amounts owed, or amounts paid to an owner by a CDA;

The family would otherwise be prohibited admission under alcohol abuse standards established by the CDA in accordance with 24 CFR 982.553(a)(3);

The CDA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

18-IV.D. INCOME VERIFICATION AT ADMISSION

Self-Certification at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, CDAs may consider self-certification the highest form of income verification at admission. As such, CDA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the CDA's request.

CDA Policy

Any documents used for verification must be the original (not photocopied) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the CDA and must be signed by the family member whose information or status is being verified.

The CDA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The CDA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The CDA 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, the CDA will terminate the family's assistance in accordance with the policies in Chapter 12.

Recently Conducted Income Determinations

CDAs may accept income calculations and verifications from third-party providers or from an examination that the CDA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

CDA Policy

The CDA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the CDA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination the CDA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and CDA policies in Chapter 11.

EIV Income Validation

Once HUD makes the EIV data available to CDAs under this waiver and alternative requirement, the CDA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, CDAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with CDA policies in Chapter 3.

If a CDA later determines that an ineligible family received assistance, the CDA must take steps to terminate that family from the program in accordance with Chapter 12.

18-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION

For the EHV program, the CDA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, CDAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the CDA provides

an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a CDA determines that an ineligible family received assistance, the CDA must take steps to terminate that family from the program.

CDA Policy

The CDA will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within 180 days of admission. The CDA may provide an additional 60-day extension based on evidence from the family or confirmation from SMAC that the family has made a good-faith effort to obtain the documentation.

If the CDA determines that an ineligible family received assistance, the CDA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

118-IV.F. AGE AND DISABILITY VERIFICATION

CDAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the CDA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a CDA determines that an ineligible family received assistance, the CDA must take steps to terminate that family from the program.

CDA Policy

The CDA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the CDA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the CDA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The CDA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the CDA determines that an ineligible family received assistance, the CDA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

18S-IV.G. INCOME TARGETING

The CDA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and CDA policy in Chapter 3; however, income targeting requirements do not apply for EHV families. The CDA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

CDA Policy

The CDA will not include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

PART V: HOUSING SEARCH AND LEASING

18-V.A. INITIAL VOUCHER TERM

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV vouchers must have an initial search term of at least 120 days. CDA policies on extensions as outlined in Section 5-II.E. will apply.

CDA Policy

All EHVs will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the CDA grants an extension.

18-V.B. HOUSING SEARCH ASSISTANCE

The CDA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the CDA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and CDA forms; and
- Help expedite the EHV leasing process for the family

CDA Policy

As identified in the MOU between the CDA and SMAC, the following housing search assistance will be provided to each EHV family:

The CDA, in partnership with Dakota County Social Services, will:

Conduct owner outreach in accordance with policies in Chapter 13.

Provide directions to potential units as part of the EHV briefing packet.

Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter.

At least every 30 days, conduct proactive check-ins via email and telephone with families who are searching with an EHV and remind them of their voucher expiration date.

Assign a dedicated landlord liaison for EHV voucher families.

Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods.

Provide transportation assistance to potential units.

Assist the family with the completion of rental applications and CDA forms.

SMAC will:

Identify eligible households.

Refer eligible households to the CDA within 5 business days.

18-V.C. HQS PRE-INSPECTIONS

To expedite the leasing process, CDAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

CDA Policy

To expedite the leasing process, the CDA may pre-inspect available units that EHV families may be interested in leasing to maintain a pool of eligible units. If an EHV family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be approved if it meets all other conditions under 24 CFR 982.305.

The family will be free to select his or her unit.

When a pre-inspected unit is not selected, the CDA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspection's.

18-V.D. INITIAL LEASE TERM

Unlike in the standard HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the CDA policy in Section 9-I.E., Term of Assisted Tenancy.

18-V.E. PORTABILITY

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to EHVs. Exceptions are addressed below.

Nonresident Applicants

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial CDA when they applied, regardless of CDA policy in Section 10-II.B.

Billing and Absorption

A receiving CDA cannot refuse to assist an incoming EHV family, regardless of whether the CDA administers EHVs under its own ACC.

- If the EHV family moves under portability to another CDA that administers EHVs under its own ACC:
  - The receiving CDA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the CDA does not have an EHV available to absorb the family, it must bill the initial CDA. The receiving CDA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.

- Regardless of whether the receiving CDA absorbs or bills the initial CDA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving CDA's EHV policies.

- If the EHV family moves under portability to another CDA that does not administer EHV under its own ACC, the receiving CDA may absorb the family into its regular HCV program or may bill the initial CDA.

Family Briefing

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial CDA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial CDA is required to help facilitate the family's portability move to the receiving CDA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

CDA Policy

In addition to following CDA policy on briefings in Chapter 5, as part of the briefing packet for EHV families, the CDA will include a written notice that the CDA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the CDA will provide interpretation services in accordance with the CDA's LEP plan (See Chapter 2).

Coordination of Services

If the portability move is in connection with the EHV family's initial lease-up, the receiving CDA and the initial CDA must consult and coordinate on the EHV services and assistance that will be made available to the family.

CDA Policy

For EHV families who are exercising portability, when the CDA contacts the receiving CDA in accordance with Section 10-II.B. Preapproval Contact with Receiving CDA, the CDA will consult and coordinate with the receiving CDA to ensure there is no duplication of EHV services and assistance, and ensure the receiving CDA is aware of the maximum amount of services fee funding that the initial CDA may provide to the receiving CDA on behalf of the family.

Services Fee

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial CDA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving CDA or $1,750, unless the initial CDA and receiving CDA mutually agree to change the $1,750 cap. Service fees are paid as follows:

- If the receiving CDA, in consultation and coordination with the initial CDA, will provide eligible services or assistance to the incoming EHV family, the receiving CDA may be

compensated for those costs by the initial CDA, regardless of whether the receiving CDA bills or absorbs.

- If the receiving CDA administers EHVs, the receiving CDA may use its own services fee and may be reimbursed by the initial CDA, or the initial CDA may provide the services funding upfront to the receiving CDA for those fees and assistance.
- If the receiving CDA does not administer EHVs, the initial CDA must provide the services funding upfront to the receiving CDA. Any amounts provided to the receiving CDA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving CDA to the initial CDA.

Placement Fee/Issuance Reporting Fee

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving CDA receives the full amount of the placement component of the placement fee/issuing reporting fee. The receiving CDA is eligible for the placement fee regardless of whether the receiving CDA bills the initial CDA or absorbs the family into its own program at initial lease-up. The initial CDA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

18-V.F. PAYMENT STANDARDS

Payment Standard Schedule

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the CDA may, but is not required to, establish separate higher payment standards for EHVs. Lower EHV payment standards are not permitted. If the CDA is increasing the regular HCV payment standard, the CDA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the CDA chooses to establish higher payments standards for EHVs, HUD has provided other regulatory waivers:

- Defining the "basic range" for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a CDA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The CDA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.
  - The CDA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

    CDA Policy

    The CDA will not establish a higher payment standard amount for EHVs. The CDA will use the same payment standards for HCV and EHV.

Rent Reasonableness

All rent reasonableness requirements apply to EHV units, regardless of whether the CDA has established an alternative or exception EHV payment standard.

Increases in Payment Standards

The requirement that the CDA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to EHV. The CDA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

CDA Policy

The CDA will not establish an alternative policy for increases in the payment standard. CDA policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

18-V.G. TERMINATION OF VOUCHERS

After September 30, 2023, a CDA may not reissue EHVs when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the CDA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHVs under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHVs that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct CDAs administering EHVs to cease leasing any unleased EHVs if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

PART VI: USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS

EHV funds allocated to the CDA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the CDA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the CDA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHVs are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHVs and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts, or any amounts owed to HUD-by-HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The CDA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The CDA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHVs in accordance with the HCV program requirements at 24 CFR 982.158.

Exhibit 18-1: HOMELESS PROVIDER'S CERTIFICATION

Attachment 3 of Notice PIH 2021-15 Example of a Homeless Provider's Certification

Emergency Housing Voucher (EHV)

HOMELESS CERTIFICATION

EHV Applicant Name: _____

☐ Household without dependent children (complete one form for each adult in the household)

☐ Household with dependent children (complete one form for household)

Number of persons in the household: _____

This is to certify that the above named individual or household meets the following criteria based on the check mark, other indicated information, and signature indicating their current living situation-

Check only one box and complete only that section

Living Situation: place not meant for human habitation (e.g., cars, parks, abandoned buildings, streets/sidewalks)

☐ The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus station, airport, or camp ground.

Description of current living situation:

_____

Homeless Street Outreach Program Name: _____

This certifying agency must be recognized by the local Continuum of Care (CoC) as an agency that has a program designed to serve persons living on the street or other places not meant for human habitation. Examples may be street outreach workers, day shelters, soup kitchens, Health Care for the Homeless sites, etc.

Authorized Agency Representative Signature: _____

Date: _____

Living Situation: Emergency Shelter

☐ The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a supervised publicly or privately operated shelter as follows:

Emergency Shelter Program Name:

_____

This emergency shelter must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory (e.g., newly established Emergency Shelter).

Authorized Agency Representative Signature: _____ Date: _____

Living Situation: Recently Homeless

☐ The person(s) named above is/are currently receiving financial and supportive services for persons who are homeless. Loss of such assistance would result in a return to homelessness (ex. Households in Rapid Rehousing Programs, residents of Permanent Supportive Housing Programs participating in Moving On, etc.)
Authorized Agency Representative Signature:

_____

This referring agency must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory.

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

☐ emergency shelter OR ☐ a place unfit for human habitation

Authorized Agency Representative Signature: _____
Date: _____

Exhibit 18-2: EXAMPLE OF A VICTIM SERVICES PROVIDER'S CERTIFICATION

Attachment 4 of Notice PIH 2021-15: Example of a Victim Services Provider's Certification

Emergency Housing Voucher (EHV)

SAMPLE HUMAN TRAFFICKING CERTIFICATION

Purpose of Form:

The Victims of Trafficking and Violence Protection Act of 2000 provides assistance to victims of trafficking making housing, educational health care, job training and other Federally-funded social service programs available to assist victims in rebuilding their lives.

Use of This Optional Form:

In response to this request, the service provider may complete this form and submit it to the Public Housing Agency (CDA) to certify eligibility for EHV assistance.

Confidentiality: All information provided to the service provider concerning the incident(s) of human trafficking shall be kept confidential and such details shall not be entered into any shared database. Employees of the CDA will not have access to these details, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED ON BEHALF OF HUMAN TRAFFICKING SURVIVOR

EHV Applicant Name: _____

This is to certify that the above named individual or household meets the definition for persons who are fleeing or attempting to flee human trafficking under section 107(b) of the Trafficking Victims Protection Act of 2000.

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual(s) named above is/has been a victim of human trafficking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Authorized Agency Representative Signature:_____**Date:** _____

PART VI: FAMILY VOUCHER RENTAL ASSISTANCE PROGRAM

18-VI.A. OVERVIEW

The CDA will administer tenant-based rental assistance for eligible referrals from Dakota County Community Services. This program will continue to be administered, subject to budget renewal.

18-VI.B. ELIGIBILITY

The Family Voucher Rental Assistance Program was designed to provide temporary tenant-based rental assistance to eligible households until they transition to the Housing Choice Voucher Program. An eligible household must be a Dakota Woodlands resident, eligible per Dakota County Social Services policy.

Due to the temporary nature of this program, referrals must be:

- On Dakota County CDA's Housing Choice Voucher waiting list
- Agree to transition to the Housing Choice Voucher waiting list upon selection
- Eligible for the Housing Choice Voucher Program by meeting the following prescreening criteria:
    - Income at or below 50% AMI based on household size
    - Use the tenant-based rental assistance in Dakota County
    - Pass criminal background screening

18-VI.C. OUTREACH AND REFERRALS

The CDA operates the Family Voucher Rental Assistance Program throughout Dakota County, Minnesota.

The Family Voucher Rental Assistance Program was designed to assist a targeted population who are linked to case management services for the first year of program participation. Dakota County Social Services will provide eligible clients for referral to the CDA to receive tenant-based rental assistance.

18-VI.D. APPLICATIONS, WAITING LIST AND TENANT SELECTION

Dakota County Social Services will maintain a waiting list for assistance. Dakota County CDA will request a program referral when assistance is available. The Dakota County CDA will issue a housing voucher that will allow the applicant to search for housing for 120 days. If, after 120 days, the applicant has not secured a qualified housing unit, the opportunity to utilize this program will end.

In preparation for admission to the Housing Choice Voucher Program, the Dakota County CDA will collect birth certificates (when applicable) and Social Security cards for all household members.

18-VI.E. INCOME AND SUBSIDY DETERMINATIONS

Income and assets will be determined and verified in accordance with Chapters 6 and 7 of the Housing Choice Voucher Administrative Plan. The Family Voucher Rental Assistance Program will not use elderly, disability, medical, or childcare deductions.

Due to the temporary nature of the program, until the Housing Choice Voucher is available, the

same calculation will be used to establish the level of subsidy. The participant portion will be calculated at 30% of gross income, however, if the gross rent exceeds the payment standard, the participant may pay more. At program admission, or at move, the tenant may not exceed 40% of their gross income toward rent plus tenant-paid utilities. Family voucher rent assistance can only be used for Housing Assistance Payments (HAP), not application fees or security deposits.

18-VI.F. HOUSING QUALITY STANDARDS (HQS)

All units rented under the Family Voucher Rental Assistance Program must meet HQS at the initial lease term and biennially thereafter. Inspections will be made in accordance with Chapter 8. All units assisted under the Family Voucher Rental Assistance Program must be determined reasonable, in accordance with Chapter 8. The inspections will be the responsibility of the CDA.

Family Voucher Rental Assistance Program applicants and participants will be assisted in finding appropriate housing by Dakota County Social Services.

18-VI.G. MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

Families will be responsible for selecting their own rental housing. Families may locate suitable housing anywhere in Dakota County. Family Voucher Rental Assistance is not portable to other jurisdictions.

18-VI.H. SPECIAL HOUSING TYPES

Homeownership is not an option under the Family Voucher Rental Assistance Program.

18-VI.I. PROGRAM ADMINISTRATION

Family Voucher Rental Assistance referrals will be given 120 days search time. If the referral has not secured a housing unit within 120 days, the referral will be canceled.

If a referral does not pass the prescreening eligibility for the Housing Choice Voucher Program, it will be denied. A referral that has been denied for the Family Voucher Rental Assistance Program, will be offered the informal review process, described in Chapter 16.

If, during eligibility processing, the referral is negatively discharged from Dakota Woodlands, the Dakota County CDA will discontinue processing the household for assistance.

The Dakota County CDA will consider approving a lease term, other than 12-months, (i.e. month-to-month). If a lease term, other than 12 months, is approved, a copy of the most recent lease must be provided to the Dakota County CDA. Regardless of the lease term, the Dakota County CDA will conduct an annual recertification, require an updated lease (or rent change form) and biennial HQS inspection.

During program participation, all changes in household composition, income and assets are required to be reported, in writing, to the Dakota County CDA within 30 days. If the change reported is an income decrease, an adjustment will be processed, if applicable. If the reported change is an increase, the Dakota County CDA will evaluate the increase to ensure that it meets the $500/month threshold. If the change does not meet this threshold, no change will be required.

If, at any time during program participation, it is determined that the household is not eligible for the Housing Choice Voucher Program notice will be provided, in writing, stating that the Family Voucher Rental Assistance Program will terminate in 60 days. If a program participant is evicted through an eviction action filing, or termination notice by the landlord, Family Voucher Rental Assistance will terminate when the lease agreement ends.

The CDA will apply the policies in this Plan that are not addressed in the Family Voucher Rental Assistance Program Policies.

PART VII: NICOLS POINTE RENTAL ASSISTANCE PROGRAM

18-VII.A. OVERVIEW

The CDA owns and manages a 24-unit development for seniors age 55+ with a preference for Veterans. The CDA has committed to providing project-based rental assistance to eligible resident's contingent on the availability of funding. Rental assistance will be administered in accordance with the Nicols Pointe Admissions and Continued Occupancy Plan (ACOP).

18-VII.B. ELIGIBILITY

The Nicols Pointe Rental Assistance Program was designed to provide project-based rental assistance to eligible households until they transition to the Housing Choice Voucher Program. An eligible household must be a resident of Nicols Pointe.

Due to the temporary nature of this program, program participants must be:

- On Dakota County CDA's Housing Choice Voucher waiting list
- Agree to transition to the Housing Choice Voucher waiting list upon selection
- Eligible for the Housing Choice Voucher Program by meeting the following prescreening criteria:
    - Income at or below 50% AMI based on household size
    - Use the rental assistance at Nicols Pointe

18-VII.C. OUTREACH AND REFERRALS

The CDA operates the Nicols Pointe Rental Assistance program for eligible residents. Referrals will be provided by the Property Management Department once a resident has been deemed eligible and agreed to participate in the rental assistance program.

18-VII.D. APPLICATIONS, WAITING LIST AND TENANT SELECTION

Dakota County CDA's Property Management Department will maintain a waiting list and request rental assistance when a new resident has been deemed eligible for a vacant unit.

In preparation for admission to the Housing Choice Voucher Program, the Dakota County CDA will collect birth certificates (when applicable) and Social Security cards for all household members.

18-VII.E. INCOME AND SUBSIDY DETERMINATIONS

Income and assets will be determined and verified in accordance with Chapters 6 and 7 of the Housing Choice Voucher Administrative Plan. The Nicols Pointe Rental Assistance Program will not use elderly, disability, or medial deductions.

Due to the temporary nature of the program, until the Housing Choice Voucher is available, the same calculation will be used to establish the level of subsidy. The participant portion will be calculated at 30% of gross income, however, if the gross rent exceeds the payment standard, the participant may pay more. At program admission, or at move, the tenant may not exceed 40% of their gross income toward rent plus tenant-paid utilities. Nicols Pointe rent assistance can only be

used for Housing Assistance Payments (HAP), not application fees or security deposits.

18-VII.F. INSPECTION

All units rented under the Nicols Pointe Rental Assistance Program must meet HQS/NSPIRE at the initial lease term and biennially thereafter, if required by program funding. If applicable, inspections will be made in accordance with Chapter 8. The inspections will be the responsibility of the Housing Assistance Department of the CDA.

18-VII.G. MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

Nicols Pointe Rental Assistance is not portable to other rental units/properties or jurisdictions.

18-VII.H. SPECIAL HOUSING TYPES

Homeownership is not an option under the Nicols Pointe Rental Assistance Program.

18-VII.I. PROGRAM ADMINISTRATION

During program participation, all changes in household composition, income and assets are required to be reported, in writing, to the Dakota County CDA within 30 days. If the change reported is an income decrease, an adjustment will be processed, if applicable. If the reported change is an increase, the Dakota County CDA will evaluate the increase to ensure that it meets the $500/month threshold. If the change does not meet this threshold, no change will be required.

If a program participant vacates Nicols Pointe, is evicted through an eviction action filing, or termination notice by the landlord, Nicols Pointe Rental Assistance will terminate when the lease agreement ends.

The CDA will apply the policies in this Plan that are not addressed in the Nicols Pointe Rental Assistance Program Policies.

GLOSSARY

A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
BR	Bedroom
CDA	Community Development Agency
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)
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HA	Housing Authority or housing agency
HAP	Housing assistance payment
HCV	Housing choice voucher
HIP	Housing Information Portal
HOTMA	Housing Opportunity through Modernization Act of 2016
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
IVT	Income Validation Tool
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTW	Moving to Work
NOFA	Notice of funding availability
NSPIRE	National Standards for the Physical Inspection of Real Estate
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PBV	Project-based voucher
CDA	Public housing agency
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TPV	Tenant protection vouchers
TR	Tenant rent
TTP	Total tenant payment

UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VAWA	Violence Against Women Act
VCA	Voluntary Compliance Agreement
VMS	Voucher Management System

B. DEFINITIONS OF SUBSIDIZED HOUSING TERMS

Abatement. **Stopping HAP payments to an owner with no potential for retroactive payment.**

Absorption. In portability (under subpart H of this part 982): the point at which a receiving CDA stops billing the initial CDA for assistance on behalf of a portability family. The receiving CDA uses funds available under the receiving CDA 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 CDA for administration of the program. See §982.152.

Administrative plan. The plan describes CDA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the CDA's board and included as a supporting document to the CDA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Affiliated individual. *With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.*

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual. Happening once a year.

Annual contributions contract (ACC). The written contract between HUD and the CDA under which HUD agrees to provide funding for a program under the 1937 Act, and the CDA agrees to comply with HUD requirements for the program.

Prior to CDA implementation of HOTMA 102/104: 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.

Upon CDA implementation of HOTMA 102/104: Annual income. All amounts not specifically excluded in 24 CFR 5.609(b), received from all sources by each member of the family who is 18 years of age or older or is the head of household, spouse or co-head, plus unearned income by or on behalf of each dependent who is under 18 years of age.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area exception rent. An amount that exceeds the published FMR. See 24 CFR 982.504(b).

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See net family assets.)

Authorized voucher units. The number of units for which the CDA is authorized to make assistance payments to owners under its annual contributions contract.

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Biennial. Happening every two years.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights can remain intact.

Budget authority. An amount authorized and appropriated by the Congress for payment to CDAs under the program. For each funding increment in a CDA program, budget authority is the maximum amount that may be paid by HUD to the CDA over the ACC term of the funding increment.

Building. A structure with a roof and walls that contains one or more dwelling units.

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

Childcare expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

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

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606 to 24 CFR 982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial CDA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract authority. The maximum annual payment by HUD to the CDA 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.

Day laborer. An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

De-minimis error. An error that results in a difference in the determination of a family's adjusted income of $30 or less per month.

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, co-head, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities*.

Disallowance. Exclusion from annual income.

***Displaced family*.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Earned income. Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income receiveind in which no goods or services are ebing paid for, such as welfare, Social Security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

Economic abuse. Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

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, co-head, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

***Elderly person*.** An individual who is at least 62 years of age.

Eligible family. A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

***Evidence of citizenship or eligible status*.** The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. *(*See 24 CFR 5.603.)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. In the HCV program, the FMR may be established at the ZIP code level (see definition of *Small Area Fair Market Rents)*, metropolitan area level, or nonmetropolitan county level.

***Family*.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in CDA policy. Family includes a single person, who may be:

- An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
- An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

Family also includes a group of persons residing together, and such group includes, but is not limited to:

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A disabled family
- A displaced family
- The remaining member of a tenant family

Family rent to owner. In the voucher program, the portion of rent to the owner is paid by the family.

Family self-sufficiency program (FSS program). The program established by the CDA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

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 CDA under the CDA subsidy standards.

Federal agency. A department of the executive branch of the federal government.

Foster adult. A member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable, to live independently due toa debilitating physical or mental condition and is placed with the family by an authorized placement agency (e.g. public welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

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

Foster childcare 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 the CDA under the consolidated annual contributions contract for the CDA program.

Gender identity. *Actual or perceived gender-related characteristics.*

Gross rent. The sum of the rent to the owner plus any utility allowance.

Group home. A dwelling unit that is licensed by the 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 to 982.614.

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 CDA 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 CDA'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 the CDA, 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 minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including variations approved by HUD for the CDA under 24 CFR 5.705(a)(3).

HUD. The U.S. Department of Housing and Urban Development.

Human trafficking. A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The CDA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed $5,000.

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

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for eligibility. Annual income.

Independent contractor. An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done or how it will be done.

Independent entity. The unit of general local government; however, if the CDA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or a HUD-approved entity that is autonomous and recognized under state law as a separate legal entity from the CDA. The entity must not be connected financially (except regarding compensation for services performed for the CDA-owned units) or in any other manner that could result in the CDA improperly influencing the entity.

Individual with handicaps. See *person with disabilities.*

Upon CDA implementation of HOTMA 102/104: Inflationary index. An index based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) used to make annual adjustments to the deduction for elderly disabled families, the cap for imputing returns on assets, the restriction on

net family assets, the amount of net assets the CDA may determine based on self-certification by the family, and the dependent deductions.

Initial CDA. In portability, the term refers to both: (1) A CDA that originally selected a family that later decides to move out of the jurisdiction of the selecting CDA; and (2) A CDA that absorbed a family that later decides to move out of the jurisdiction of the absorbing CDA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

Jurisdiction. The area in which the CDA has authority under state and local law to administer the program.

Landlord. Either the owner of the property or their representative or the managing agent or their representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the CDA.

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; and
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Living/sleeping room. *A living room may be used as sleeping (bedroom) space, but no more than two people may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in property operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.*

Local preference. A preference used by the CDA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS. A special housing type: see 24 CFR 982.620 and 982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (a deduction for elderly or disabled families only) These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of the annual income.

Mutual housing. Included in the definition of *cooperative*.

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, 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.

Prior to CDA implementation of HOTMA 102/104: Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land, and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, CDAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received, therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Prior to CDA implementation of HOTMA 102/104: Net family assets. The net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. In determining net family assets, the CDA or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of funding availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

Overcrowded. A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each of the two persons.

PHA-owned unit. A dwelling unit in a project that is: (A) Owned by the CDA (including having a controlling interest in the entity that owns the project); (B) Owned by an entity wholly controlled by the CDA; or (C) Owned by a limited liability company or limited partnership in which the CDA (or an entity wholly controlled by the CDA) holds a controlling interest in the managing member or general partner. A controlling interest is: (A) Holding more than 50 percent of the stock of any corporation; (B) Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a nonprofit corporation); (C) Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA; (D) Holding more than 50 percent of all managing member interests in an LLC; (E) Holding more than 50 percent of all general partner interests in a partnership; or (F) Equivalent levels of control in other ownership structures.

CDA Plan. The annual plan and the 5-year plan as adopted by the CDA and approved by HUD.

CDA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a CDA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the CDA 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 CDA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Persons with disabilities. *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 people with AIDS or conditions arising from AIDS but exclude 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 CDA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. Regarding the earned income disallowance, a person with disabilities who has earned, in the 12 months before 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. A property consisting of a single, contiguous, or multiple buildings.

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 (CDA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

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

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

Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

Qualified census tract. Regarding 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.

Upon CDA implementation of HOTMA 102/104: Real property. Real property has the same meaning as that provided under the law of the state in which the property is located.

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 CDA's programs or services.

Receiving CDA. In portability: A CDA that receives a family selected for participation in the tenant-based program of another CDA. The receiving CDA issues a voucher and provides program assistance to the family.

***Recertification*.** Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

***Remaining member of 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 aged 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Request for Tenancy Approval (RTA). A form (Form HUD-52517) submitted by or on behalf of a family to the CDA once the family has identified a unit that it wishes to rent using tenant-based voucher assistance.

Reside. Having one's permanent home in a particular place. For Dakota County CDA residency preference, the particular place is within Dakota County.

Residency preference. A local preference for admission of families that reside anywhere in a specified area, including families with a member who works in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

***Responsible entity*.** For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the CDA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

***Secretary*.** The Secretary of Housing and Urban Development.

***Section 8*.** Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 8 Management Assessment Program (SEMAP). A system used by HUD to measure the CDA's performance in key Section 8 program area. See 24 CFRP Part 985.

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.

Seasonal worker. An individual wo is hired into a short-term position, and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

Set-up charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Severe deficiency. Under NSPIRE, the sever category includes deficiencies that, if evident in the home or on the property, present a high risk of permanent disability, or serious injury or illness, to a resident, or the physical security or safety of a resident or their property would be seriously compromised.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

Sexual orientation. Homosexuality, heterosexuality, or bisexuality.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see 24 CFR 982.615 to 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 to 982.605.

Small Area Fair Market Rents (SAFMRs). FMRs established for ZIP code areas.

Small rural public housing agency (CDA). Section 38 defines the term "small public housing agency" as a public housing agency "for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer" and "that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations." After consideration of the public comments discussed above, HUD is interpreting "predominantly operates in a rural area" to mean a small CDA that:

(1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or

(2) more than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the CDA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) 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 the CDA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Substantially Comply with HQS. A unit with HQS deficiencies that require only minor repairs to correct (repairs that could reasonably be expected to be completed within 48 hours of notification).

Suspension. The term on the family's voucher stops from the date the family submits a request for CDA approval of tenancy, until the date the CDA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling*.

Tax credit rent. Regarding certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Technological abuse. An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

Tenancy addendum. For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant-paid utilities. Utilities and services that are not included in the rent to owner and are the responsibility of the assisted family, regardless of whether the payment goes to the utility company or the owner. The utilities and services are those necessary in the locality to provide housing that

complies with HQS. The utilities and services may also include those required by HUD through a *Federal Register* notice after providing opportunity for public comment.

Tenant rent to owner. See *Family rent to owner*.

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Unearned income. Any annual income, as calculated under 24 CFR 5.609, that is not earned income.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by the CDA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Very low-income family. A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area based on its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Act. Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

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 CDA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for CDA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list. A list of families organized according to HUD regulations and CDA policy who are waiting for a voucher to become available.

Waiting list admission. An admission from the CDA waiting list.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare, or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to an distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for healthcare, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or Social Security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

Appendix to the Administrative Plan (HOTMA 102/104)

Purpose of the Appendix

HUD published a final rule on February 14, 2023, revising regulations related to income, assets, adjusted income, verification, and reexams (among others) to implement Sections 102 and 104 of HOTMA. While the new regulations were effective January 1, 2024, HUD has delayed the full compliance date for HOTMA 102/104. Initially, *Compliance* with Sections 102 and 104 of HOTMA means not only applying HOTMA 102/104 regulations to affected programs but also reporting in HUD's new Housing Information Portal (HIP) system. Currently, PHAs remain unable to fully comply with HOTMA 102/104 because compliance depends on transitioning from HUD's IMS/PIC system (which is unable to accept HOTMA-compliant Form HUD-50058) to HUD's new HIP system (which will be the only system that accepts HOTMA-compliant Form HUD-50058). PHAs cannot transition to HOTMA until HIP is in place, HOTMA-compliant, and accessible.

On December 18, 2024, HUD published Notice PIH 2024-38, which identifies provisions in HOTMA 102/104 that PHAs must comply with no later than July 1, 2025. The notice states that all transactions with an effective date on or after July 1, 2025, must be processed using the requirements in the notice. July 1, 2025, compliance deadline does not apply to other HOTMA 102/104 provisions not listed in the notice. Other provisions are still dependent on HIP implementation and may not be implemented yet.

The PHA must:

- Have stopped enrolling families into the EID as of 12/31/23.
- Transition to the new Form HUD-9886-A no later than 2/1/25.
- Apply HOTMA 102/104 income exclusions listed in 24 CFR 5.609(b) (including new requirements for student financial assistance) for all income examinations effective on or after 7/1/25;
- Apply provisions related to de minimis errors; and
- Use these new HOTMA 102/104 definitions listed in the regulations for all transactions effective on or after 7/1/25.

These definitions include:

- Earned income
- Unearned income
- Family
- Day laborer
- Independent contractor
- Dependent
- Foster child and foster adults
- Health and medical care expenses
- Minor

Further, PHAs **may,** but are not required to:

- Stop using the EIV Income Report during interim reexams.

- Use Safe Harbor income determinations from means-tested federal assistance programs to verify a family's income and assets.

Finally, in FAQs dated 2/22/24, HUD also stated PHAs **may,** but are not required to:

- Accept third-party verification dated within 120 days of the date received by the PHA (rather than 60 days of the reexam/PHA request date);
- Accept a statement dated within the appropriate benefit year for fixed income sources like Social Security; and
- Accept a self-certification of SSNs along with a third-party document as a last resort if an individual is not able to provide documentation of SSN.

More details about each of the above provisions can be found in Notice PIH 2023-27.

Other than what's listed above, all other provisions of HOTMA 102/104 are on hold still. This means **PHAs may not implement certain provisions of HOTMA yet.** These include:

- All asset provisions, including the asset limitation;
- All adjusted income provisions, with the exception of the definition of health and medical care expenses;
- Inflationary adjustments (although PHA may use the HUD-determined passbook rate);
- The new verification hierarchy, which allows for EIV + self-certification;
- Annuals using the previous 12-month period income;
- Interim reexam requirements; and
- Non-interim reexam transactions.

PHAs may not implement the above provisions because HUD has determined they depend on HIP implementation. PHAs should await further guidance from HUD when these will be applicable.

Chapter 00: No HOTMA 102/104 policies apply.

Chapter 1: No HOTMA 102/104 policies apply.

Chapter 2: No HOTMA 102/104 policies apply.

Chapter 3

- Policy section 3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION is amended to comply with section J.2 of Notice PIH 2023-27, Revocation of Consent
- Policy section III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS is added to comply with section A.1 of Notice PIH 2023-27, Asset Limitation
- HOTMA 102/104 policies related to the definition of family, foster children, and foster adults are applicable no later than July 1, 2025.

Chapter 4: No HOTMA 102/104 policies apply.

Chapter 5: No HOTMA 102/104 policies apply.

Chapter 6

- Prior to the CDA's HOTMA compliance date, the CDA will follow policies in Chapter 6.A (as updated for Notice PIH 2024-38).
- Upon the CDA's HOTMA compliance date, the CDA will follow policies in Chapter 6.B.

Chapter 7

- Prior to the CDA's HOTMA compliance date, the CDA will follow policies in Chapter 7.A (as updated for Notice PIH 2024-38).
- Upon the CD's HOTMA compliance date, the CDA will follow policies in Chapter 7.B.

Chapter 8: No HOTMA 102/104 policies apply.

- However, prior to the NSPIRE compliance date, the CDA will follow policies in Chapter 8.A. Upon the NSPIRE compliance date, the CDA will follow policies in Chapter 8.B.

Chapter 9: No HOTMA 102/104 policies apply.

Chapter 10: No HOTMA 102/104 policies apply.

Chapter 11

- Prior to the CDA's HOTMA compliance date, the CDA will follow policies in Chapter 11.A.
- Upon the CDA's HOTMA compliance date, the CDA will follow policies in Chapter 11.B.

Chapter 12

- Policy section **12-I.D. MANDATORY TERMINATION OF ASSISTANCE** is amended to comply with section J.2 of Notice PIH 2023-27, **Revocation of Consent**
- Policy section **12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS** is added to comply with section A.1 of Notice PIH 2023-27, **Asset Limitation**

Chapter 13: No HOTMA 102/104 policies apply.

Chapter 14: HOTMA 102/104 policies related to de minimis errors are applicable no later than July 1, 2025.

Chapter 15: No HOTMA 102/104 policies apply.

Chapter 16: No HOTMA 102/104 policies apply.

Chapter 17: No HOTMA 102/104 policies apply.

Chapter 18: No HOTMA 102/104 policies apply.

Chapter 19: No HOTMA 102/104 policies apply.

Glossary

The following definitions are applicable no later than July 1, 2025:

- Annual income (revised)
- Day laborer
- De minimis error
- Earned income
- Family (revised)
- Foster child
- Foster adult
- Independent contractor
- Inflationary index
- Net family assets (revised)
- Real property

- Seasonal worker
- Unearned income