



# 2023 Administrative Plan Housing Authority of Fresno County Effective January 1, 2023

# HOUSING AUTHORITY OF FRESNO COUNTY

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# HOUSING AUTHORITY OF FRESNO COUNTY

## 2023 ADMINISTRATIVE PLAN

### CHAPTER 1: STATEMENT OF POLICIES AND OBJECTIVES

#### 1.1 INTRODUCTION

The Housing Choice Voucher (HCV) Program, formerly known as the Section 8 Program, was enacted as part of the Housing and Community Development Act of 1974 for the purpose of providing housing assistance to low-income families. The HCV program is administered by the Housing Authority of Fresno County (hereafter referred to as FH). FH receives its funding for the HCV program from the Department of Housing and Urban Development (HUD); and is currently assisting approximately 7,000 families.

To administer the program, FH enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. FH must be in compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

In administering the program, FH is committed to maintaining compliance with the following:

- The regulations which govern the HCV program which are located in the Code of Federal Regulations at 24 CFR 982;
- The Fair Housing Act, 42 U.S.C. 3610-3619;
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d;
- The Age Discrimination Act of 1975, 42 U.S.C. 6101-6107;
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. ;
- Title II of the Americans with Disabilities Act, 42 U.S.C. 12101; and
- Title IX of the Education Amendments of 1972, as amended 20 U.S.C. 1681;
- FH is committed to maintaining compliance with federally-protected classes of race, color, sex, religion, familial status, age, disability, or national origin, as well as additional protections afforded under the regulations with regard to gender identity, sexual orientation, and marital status.
- In addition, FH is committed to maintaining compliance with state laws that prohibit housing discrimination based on military status, source of income, ancestry, and/or gender expression.

## 1.2 CERTIFICATIONS OF OBLIGATIONS

FH must submit a signed certification to HUD that:

- FH will administer the program in conformity with the Fair Housing Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act.
- FH will affirmatively further fair housing in the administration of the program.

## 1.3 HOUSING AUTHORITY OVERVIEW

The primary objective of FH is to provide decent, safe and sanitary housing to low-income families at an affordable cost. Our mission is to provide this housing within an environment that fosters the advancement of low-income families from a position of dependency to one of self-sufficiency.

The City and County Housing Authorities function as separate public agencies with separate governing bodies. Through a unique arrangement, the two Housing Authorities share a single Executive Director and staff, thus making it possible to draw on a more comprehensive staff while realizing the cost advantages that result from avoiding duplication, ordering in larger quantities, and sharing equipment and services. Both Housing Authorities are public housing agencies as defined in the United States Housing Act of 1937, as amended, and in 24 C.F.R. Chapter VIII. Both agencies have been organized under Section 31000, et a seq., of the California Health and Safety Code.

The Housing Authority of Fresno County and the Housing Authority of the City of Fresno are each governed by a seven-member Board of Commissioners. The City Board is appointed by the Mayor. Five of the seven commissioners are appointed to four-year, staggered terms. The other two members are appointed to two-year terms from among both the HCV and Public Housing programs. County Board of Commissioners is structured in the same manner, except that the County Commissioners are appointed by the Board of Supervisors.

The Housing Authority of Fresno County's Assisted Housing Division (AHD) administers the following Section 8 programs:

<b>PROGRAM ALLOCATIONS – County</b>
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<b>HCV VOUCHERS = 5738</b>
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## Jurisdiction

The jurisdiction of FH is Fresno County.

### **1.4 LOCAL OBJECTIVES**

The primary objective of FH is to provide decent, safe and sanitary housing to low-income families at an affordable price.

The HCV Program is designed to achieve these major objectives:

- To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.
- To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low - income families.
- To assist the local economy by maintaining a high lease up rate of available voucher funding to provide a steady flow of money into the community.
- To encourage self-sufficiency of participant families and assist in the expansion of family opportunities which addresses educational, socio-economic, recreational and other human service needs.
- To create positive public awareness and expand the level of family, owner, and community support in accomplishing FH's mission.
- To attain and maintain a high level of professionalism in our day-to-day management of all program components.
- To administer an efficient, high-performing agency through continuous improvement of FH's support systems and commitment to our employees and their development.

## **1.5 PURPOSE OF THE PLAN**

[24 CFR 982.54]

The purpose of the Administrative Plan is to clearly outline the policies that govern the Housing Authority's administration of rental assistance programs. The plan includes program requirements established by HUD, as well as discretionary policies established by the Housing Authority.

The policies of this Administrative Plan comply with applicable local and State laws, as well as HUD and other Federal regulations and guidelines, including fair housing and equal opportunity requirements. If applicable regulatory changes conflict with this plan, regulations will have precedence.

FH adheres to the Administrative Plan in administering all rental assistance programs.

## **1.6 HOW THE PLAN IS REVISED**

The original plan and any changes must be approved by FH Board of Commissioners. A copy of the plan must be provided to HUD.

FH will review and update the Agency Plan at least once a year, and more often if needed, to reflect changes in regulations, FH operations, or when needed to ensure staff consistency in operation. FH Board of Commissioners must approve the original policy and any changes. Required portions of the Agency Plan will be provided to HUD.

The Administrative Plan is a supporting document to FH Agency Plan, and is available for public review as required by CFR 24 Part 903.

## **1.7 ADMINISTRATIVE FEE RESERVE**

[24 CFR 982.155]

All expenditures from the administrative fee reserve will be approved by FH Board of Commissioners or the Executive Director and made in accordance with the approved budget.

## **1.8 RULES AND REGULATIONS**

[24 CFR 982.52]

This Administrative Plan is set forth to define FH's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Section 8 not addressed in this document are governed by such Federal



regulations, HUD Memos, Notices and guidelines, or other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC (Annual Contributions Contract) and all HUD-approved applications for program funding.

## **1.9 MONITORING FH PERFORMANCE**

### **1.9.1 THE SECTION EIGHT MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

[24 CFR 985.3]

SEMAP was designed by HUD as a tool to measure the performance of housing authorities administering the Housing Choice Voucher program and the family self-sufficiency component of the voucher program.

SEMAP is a performance measure tool designed to:

- Assess whether the housing choice voucher program is assisting eligible families to afford decent, safe, and sanitary housing at the correct subsidy cost;
- Measure FH performance in key areas of the housing choice voucher program to ensure program integrity and accountability;
- Assist housing authorities in assessing and improving their own program operations; and
- Evaluate whether FH affirmatively furthers fair housing.

### **1.9.2 THE FOURTEEN SEMAP INDICATORS**

SEMAP includes the following 14 performance indicators and one bonus indicator:

1. Selection from the Waiting List
2. Reasonable Rent
3. Determination of Adjusted Income
4. Utility Allowance Schedule
5. HQS Quality Control Inspections
6. HQS Enforcement
7. Expanding Housing Opportunities
8. Payment Standards
9. Annual Re-examinations
10. Correct Tenant Rent Calculations
11. Pre-Contract HQS Inspections

12. Annual HQS Inspections

13. Lease-up

14. a. Family Self-Sufficiency Enrollment

b. Percent of FSS Participants with Escrow Account Balances

15. Bonus indicator (De-concentration)

During FH fiscal year, FH will track its own performance on the 14 SEMAP indicators and the deconcentration bonus indicator. Within 60 days of the end of FH fiscal year, FH will complete and submit HUD-52648, SEMAP Certification to HUD.

The certification must attest to the results of quality control review FH performed on four indicators: selection from the waiting list; rent reasonableness; determination of adjusted income; and HQS enforcement.

Each indicator is assigned a numerical value, based upon FH performance. For indicators 9 through 14, HUD independently assesses and verifies FH's performance using data submitted electronically through HUD's Multifamily Tenant Characteristics System (MTCS) using the Family Report, Form HUD-50058 and other available information.

Once all indicators have been scored, the overall score is determined by summing all earned points and dividing by the total possible points.

HUD will prepare a SEMAP profile for FH, assign an overall rating, and notify FH in writing of its rating on each SEMAP indicator, its overall SEMAP scores and its overall rating.

There are four possible ratings:

- High Performer Rating: score of 90 percent or higher
- Standard Performer Rating: score of 60 percent to 89 percent
- Troubled Performer Rating: score of less than 60 percent
- Modified or Withheld Rating: only when warranted by special circumstances

If FH receives a troubled rating, the HUD field office must conduct an on-site confirmatory review before changing the rating to either "standard performer" or high performer".

FH is required to correct any performance deficiencies within 45 days of notification by HUD. If FH is unable to correct deficiencies within 45 days, it must submit a

corrective action plan for each deficiency within 30 calendar days from the date of the HUD notice.

### 1.9.3 SEMAP COMPLIANCE GOALS

FH commits to administer its programs with a high degree of efficiency; therefore, the department has set the following goals:

- Determining whether at least 98% of families were selected from the waiting list in accordance with the Admin Plan policies and met the selection criteria that determine their placement on the waiting list and the order selection.
- Determining whether at least 98% of randomly selected tenant files indicate that FH approved reasonable rents to the owner at the time of initial lease-up and before any increase in rent and at the anniversary date (if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary).
- Determining at the time of admission and reexamination that in at least 90% of cases sampled, FH properly did the following:
  - a) Obtained 3<sup>rd</sup> Party verification of adjusted income or documented why 3<sup>rd</sup> party verification was not available;
  - b) Used the verified information in determining the adjusted income;
  - c) Properly attributed allowances for expenses; and
  - d) Where the family is responsible for utilities under the lease, FH used the appropriate utility allowances for the unit leased in determining the gross rent.
- FH reviews utility rate data that it obtained within the last 12 months, and adjusts its utility allowance schedule if there has been a change of 10% or more in a utility rate since the last time the utility allowance schedule was revised.
- Determining that during the fiscal year FH performs HQS quality control inspections which meet the minimum sample size required by HUD. A supervisor or other qualified person must re-inspect a sample of units under contract from inspections conducted no more than three months prior to the date of the re-inspection. The sample of units must represent a cross section of neighborhoods and the work of a cross section of inspectors.
- Determining that a review of selected files indicate that for 100% of life-threatening fail items and for at least 98% of non-emergency items which failed inspection, FH ensures timely correction of HQS deficiencies or abates Housing Assistance Payments (HAPs) or takes vigorous action to enforce family obligations.
- Demonstrating that FH provides families and owners information which actively promotes the de-concentration of assisted families in low-income

neighborhoods.

- Demonstrating that voucher payment standards are not less than 90% or more than 110% of the current applicable published FMR, unless a higher or lower payment standard is approved by HUD.
- Determining whether at least 96% of re-exams are processed on time.
- Determining whether at least 98% of all sampled tenant files have had the tenant rent calculated correctly.
- Determining whether at least 98% of newly leased units passed HQS inspections before HAP contract date.
- Determining whether FH performs annual HQS inspections on time for at least 96% of all units under contract.
- Determining whether the percent of units leased during the last FH fiscal year was 98% or more, or the percent of allocated budget authority expended during the last FH fiscal year was 98% or more.
- Determining whether FH has filled 80 -100% of its FSS slots.
- Demonstrating whether at least 30% of FH's FSS participants have escrow account balances.

#### **1.9.4 SUPERVISORY MONITORING**

To ensure quality control, in addition to SEMAP factors above, supervisory monitoring will be conducted in accordance with departmental Performance Standards.

#### **1.9.5 INTERNAL AUDITS**

The Quality Assurance Division conducts monthly audits to document compliance with SEMAP goals, regulatory requirements and department procedures so quality is consistently maintained. If an issue of noncompliance is detected, the matter will be reported with recommendations for corrective actions.

#### **1.10 RECORDS RETENTION**

In order to demonstrate compliance with HUD and other pertinent regulations, FH will maintain records, reports and other documentation for three years as outlined in 24 CFR 982.158, and in a manner that will allow a speedy and effective audit.

#### **1.11 TERMINOLOGY**

[24 CFR 982.4]

The Housing Authority of Fresno County is referred to as "FH" or "Housing Authority" throughout this document.

The Housing Choice Voucher program is referred to as "HCV" throughout this document.

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

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

"Landlord" and "owner" are used interchangeably.

See Glossary for other terminology.

## **1.12 FAIR HOUSING POLICY**

[24 CFR 982.54(d)(6)]

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

FH shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability, gender identification, or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, FH will provide Federal/State/local information to voucher holders regarding "discrimination" and any recourse available to them if they are victims of discrimination. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the voucher holder's briefing packet.

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

Posters and housing information are displayed in locations throughout FH's office in such a manner as to be easily readable from a wheelchair.

FH's central office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TDY telephone service provider.

## **1.13 ACCOMMODATIONS POLICY**

[24 CFR 8.28]

This policy is applicable to all situations described in this Administrative Plan when a family initiates contact with FH, when FH initiates contact with a family including when a family applies, and when FH schedules or reschedules appointments of any kind.

In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, no otherwise qualified individual with handicaps shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefit of, or be subjected to discrimination under any program or activity of FH. FH will take appropriate measures to ensure that an individual with handicaps shall have equal access to available services, programs, and activities offered. Such appropriate measures include, but are not limited to:

- provision of telecommunication devices for the deaf;
- provision of sign language interpreters, as requested;
- utilization of barrier-free meeting places;
- provision of a discrimination complaints procedure;
- a list of accessible units will be provided, when available.

FH may contact and obtain services from one of, but not limited to, the following Agencies to accommodate person with disabilities:

- California State Department of Rehabilitation
- Resources for Independence
- Central Valley Regional Center
- Deaf and Hard of Hearing Service Center, Inc.
- Valley Center for the Blind, Inc.
- Self Help for Hard of Hearing People, Inc.

Accessibility for the hearing impaired is provided by the TDY telephone service provider.

### **1.13.1 PERSONS WITH DISABILITIES**

FH's policies and practices will be designed to provide assurances that all persons with disabilities will be provided an opportunity to request a reasonable accommodation so that they may fully access and utilize the housing program and



related services. The availability of specific accommodations will be made available on FH forms and letters to all families. Requests may be verified with a reliable, knowledgeable professional so that FH can properly accommodate the need presented by the disability.

### **1.13.2 FEDERAL AMERICANS WITH DISABILITIES ACT OF 1990**

With respect to an individual, the term "disability" means (42 US Code 12102):

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual. The term physical or mental impairment may include, but is not limited to, conditions such as visual or hearing impairment, mobility impairment, HIV infection, intellectual disability, drug addiction (except current illegal use of or addiction to drugs) , or mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working; or
- A record of such impairment, or are regarded as having such an impairment.

Individuals with contagious diseases who do not pose a direct threat to others are covered by the Act. AIDS victims and those who test positive for the HIV virus are considered to have a disability.

### **1.13.3 DEFINITION OF REASONABLE ACCOMMODATION**

A "reasonable accommodation" is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces (24 CFR Parts 8.3 and 100.201). Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the FH, 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.

### **1.13.4 REQUESTING A REASONABLE ACCOMMODATION**

Any family that requests an accommodation will be given a Request for Special Accommodation form.

The process, which can take up to 45 calendar days, includes the following steps:

- Family completes the form, providing: a) the reason accommodation is requested and b) full contact information for the reliable third party who can verify the need for the accommodation.
- Fresno Housing will fax a request to the reliable third party asking for verification of the need for the requested accommodation.
- Once the response is received, the family will be notified in writing whether the request has been approved or denied.

Requests for an accommodation may be made orally or in writing; however, the better practice is to have the accommodation request in writing for accurate documentation and communication with a reliable third party. A resident may request an accommodation for this requirement.

If a person's disability is obvious or otherwise known to the FH, 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 FH, the FH 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.

### **1.13.5 APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION**

When reviewing a request for a reasonable accommodation the verification must clearly show that there is a nexus (a direct relationship) between the disability and the accommodation being requested. The need for a requested accommodation will be verified with a medical professional, peer support group, non-medical service agency, or reliable and knowledgeable third party. In the absence of a clear nexus, FH cannot approve the requested accommodation.

Requests for reasonable accommodation from persons with disabilities must also consider whether granting the request would create an "undue financial and administrative burden" for FH, meaning an action requiring "significant difficulty or expense".

In determining whether accommodation would create an undue hardship, the following guidelines will apply:

- The nature and cost of the accommodation needed;
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and
- The number of persons employed at such facility, the number of families likely to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

Except in cases involving an imminent emergency, decisions on a request for reasonable accommodation or modification shall be made by the RA Coordinator as soon as practicable but in no event later than forty-five (45) calendar days after the request form(s) is completed and FH has received all information needed to make a decision.

All outcomes will be recorded in the RA database.

Approved copies of the Decision on Reasonable Accommodation Request will be sent to the AHD supervisor to execute the reasonable accommodation.

#### Grievance Procedure for Accommodation Cases

If the family disagrees with an accommodation decision, they may make written request for an informal hearing if made within 10 business days of their disapproval letter. If still displeased with the decision an appeal may be made in writing to the Senior Manager or Director of Assisted Housing.

Any additional appeal would be directed to the Department of Housing and Urban Development (HUD), Office of Fair Housing and Equal Opportunity (FHEO). The family may also, at any time during their appeal with FH, simultaneously file an appeal with HUD, FHEO; information about such appeal is available at [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing).

### **1.13.6 ADDITIONAL POLICIES REGARDING REASONABLE ACCOMMODATION**

Additional policies regarding reasonable accommodation are referenced in other chapters throughout this Administrative Plan. The chapter reference is in parentheses.

- Special accommodation when submitting an application (2.2)
- Higher utility allowances as reasonable accommodation for a person with disabilities (6.13.5)
- Special accommodation when requesting an individual HCV briefing (8.2.4)

- Special accommodation when additional time is needed to search for a unit (8.5.2)
- Special housing types as a reasonable accommodation (9.3.2)
- Waiver of Restriction on Renting to Relatives When Needed for Reasonable Accommodation (9.4)
- Exception Payment Standards When Needed as a Reasonable Accommodation (11.2.2)
- When a Reasonable Accommodation is Needed to Complete the Annual Reexamination (12.4.1)
- When a Reasonable Accommodation is Needed to Move Within the First Year of the HAP Contract (13.3.1)
- When a Reasonable Accommodation is Needed to Move and a Balance is Still Owing (18.4.5)
- Informal Hearing: Rescheduling When Needed as a Reasonable Accommodation for a Person with Disabilities (19.4.4)
- Section 8 Homeownership Program (21.2 and 21.3.1)

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

#### **1.14 LIMITED ENGLISH PROFICIENCY (LEP) TRANSLATION SERVICES**

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 housing choice voucher program (HCV). 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.

FH will take affirmative steps to communicate with people who need services or information in a language other than English. These 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 policy, LEP persons

are HCV applicants and resident families, and parents and family members of applicants and resident families.

The FH is committed to providing meaningful access to the FH's programs and services to all eligible persons, including those who have limited English proficiency because of their national origin. The FH has analyzed its operations and the populations it serves, and has developed a Language Assistance Plan, which is part of our Five-Year Plan/Annual Plan (see Appendix B). The plan details the steps the FH will take to provide meaningful access in connection with our programs and services to these populations. The two primary language assistance needs in the Fresno area are for persons speaking Spanish and Hmong.

#### **1.14.1 ORAL TRANSLATION**

FH has bilingual staff to assist non-English speaking families in Spanish and Hmong and orally translates documents into Spanish and Hmong. Where bilingual staff is not available to interpret for these families, FH will use an online language interpretation service, which offers translation in over 100 languages, to communicate effectively with clients.

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

#### **1.14.2 WRITTEN TRANSLATION**

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

- Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.
- Estimated cost to FH per client of translation of English written documents into the other language.
- The availability of local organizations to provide translation services to non-English speaking families.
- Availability of bi-lingual staff to provide translation for non-English speaking families.

### **1.15 PRIVACY RIGHTS**

[24 CFR 5.230]

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

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

In the event FH should come into possession of confidential medical information, such information must be kept confidential. The personal information must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by a supervisor. Personal medical information of a confidential nature must not be retained in the client's file.

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

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

#### **1.16 FAMILY OUTREACH**

[24 CFR 982.266]

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

FH may utilize public service announcements.

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

#### **1.17 OWNER OUTREACH**

[24 CFR 982.54(d)(5)]

FH encourages owners of decent, safe and sanitary housing units to lease to

Section 8 families. Owners may list available units on the Go Section 8 website at [www.gosection8.com](http://www.gosection8.com).

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

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

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

FH encourages program participation by owners of units located outside areas of poverty or minority concentration. The purpose of these activities is to provide choicer and better housing opportunities to families. Voucher holders are informed of the full range of areas where they may lease units inside FH's jurisdiction and given a link to a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration.

FH provides a direct phone line and/or email address to handle owner questions and concerns. The Owner Services Division has compiled information regarding commonly asked questions and answers for our website. Owners seeking information or forms can access the website.

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

#### **1.18 VIOLENCE AGAINST WOMEN ACT (VAWA) 2013**

The Violence Against Women Act of 2013 (VAWA) was signed into law. The Act is intended to protect the rights of victims of domestic violence, dating violence, sexual assault, or stalking. The legislation imposes several important requirements on public housing agencies that operate a Housing Choice Voucher (HCV) program.

One important provision in the Act applies directly to FH as well as to landlords, owners and managers participating in the HCV program. This provision protects victims of domestic violence from being evicted from their subsidized unit or having their housing assistance terminated solely because they are victims as defined under this Act.

Specific policy in regards to VAWA is covered in the following sections in this Administrative Plan:

- Verification under the Violence Against Women Act – See Chapter 7.12
- Request to move related to VAWA – See Chapter 13 13.2 & 13.3.1
- VAWA and termination of assistance – See Chapter 15.6
- Appendix A



## CHAPTER 2: APPLICATIONS AND INTEREST LIST

[24 CFR 982.201-207]

### 2.1 INTRODUCTION

The policy of FH is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. At the time the interest list is open, families wishing to participate in the housing choice voucher program must submit a pre-application providing all information requested by FH. This information allows FH to place each applicant on the interest list in accordance with the policies in this Administrative Plan.

Random lottery draws will be used as the methodology to select applicants from the interest list to create the waiting list, as needed. A final draw/purge of the interest list will take place annually.

**\*Interest List:** A list of applicants wishing to participate in the random lottery/selection process.

This chapter will explain the policies for the opening and closing of the interest list. It explains the outreach approach and describes how FH accepts pre-applications and how FH maintains the interest list. The policies that guide FH are outlined and organized into two sections, as follows:

**Section One: Initial Pre-Application Process:** This section covers an overview of the initial pre-application intake process. It will explain FH policies on how to notify the public of the opening and closing of the interest list. It also describes how an applicant may apply for rental assistance.

**Section Two: Managing the Interest List:** This section describes the pre-application information required, the structure and establishment of an interest list and how it is maintained with current and accurate information. It covers the policy regarding removal from the interest list.

Other related information such as selection from the waiting list, completion of the full application, and local preferences are covered in Chapter 3. Eligibility for program admission as well as grounds for denial of admissions is covered in Chapter 4.

## SECTION ONE: INITIAL PRE-APPLICATION PROCESS

### 2.2 OPENING AND CLOSING OF INTEREST LIST

[24 CFR 982.205(a)(1), 982.206, 982.54(d)(1)]

**Single Interest/Waiting List.** FH uses the same applicants for its City and County Housing Choice Voucher programs. The use of a single interest/waiting list will reduce burden and avoid confusion for applicants in the process of applying for HCV assistance. Managing a single interest/waiting list also reduces administrative burden by allowing staff to perform other application functions, such as issuing vouchers more expeditiously. Selected applicants who meet eligibility requirements will be issued a voucher and may lease up in either the city or county of Fresno regardless of receiving a City or County HCV voucher.

#### PUBLIC NOTICE

FH announces its intent to open the interest list to accept pre-applications for the purpose of establishing a waiting list by placing a public notice in *The Fresno Bee*, a local newspaper of general circulation, and also by minority media and other suitable means, including the agency website at [www.fresnohousing.org](http://www.fresnohousing.org).

The notice will comply with HUD fair housing requirements. The notice will contain:

- The dates, times, and the locations where families may apply.
- The program(s) for which pre applications will be taken.
- A brief description of the program(s).
- The methods by which pre-applications will be accepted.
- Limitations, if any, on who may apply.
- Should the notice have a closing date, the notice will state that the interest list will remain open for limited preferences and referral based programs only.

Normally, the opening and closing dates for pre-application intake will be clearly stated in the notice.

However, if at the time the interest list is opened, and the closing date for pre-application intake has not yet been determined, the notice will indicate that pre-application intake will be open until further notice. Once it becomes necessary to

close the interest list, FH will apply the same advertising methods of broad general circulation for closing the interest list as were used for opening of the interest list.

**Site-based Project-Based Vouchers (PBV).** When FH opens a site-based interest/waiting list for PBV units, all new applicants and families or individuals currently on FH's tenant-based interest/waiting list will be provided with the option to have their names placed on the list as well. As described in Notice PIH 2011-54, *Guidance on the Project-Based Voucher Program*, PHAs do not have to notify each family on the tenant-based waiting list by individual notice. FH will notify these applicants by the same means it would use in opening its interest list.

**Referral-based Project-Based Vouchers (PBV).** FH accepts applications by direct referral for project-based units specifically designated for persons experiencing homelessness, chronic homelessness or at risk of chronic homelessness, and persons with severe mental illness by direct referral from the Coordinated Entry System (CES) managed by the Fresno Madera Continuum of Care (FMCoc) or other community partners for specific projects. The Public Notice will clearly state that referrals must come from CES, or other sources when applicable.

## **2.3 FAMILY OUTREACH**

[24 CFR 982.266]

FH will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. When FH's interest list is open, FH will publicize the availability and nature of housing assistance for very low income families in a newspaper of general circulation, minority media, and by other suitable means. Notices will also be provided in other languages. FH may utilize public service announcements.

## **2.4 FAIR HOUSING POLICY**

[24 CFR 982.54(d)(6)]

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

FH shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or marital status, handicap or disability, gender identification, or sexual orientation.

## **2.5 HOW TO APPLY**

FH is permitted by HUD to determine the format and content of pre-applications. For the purpose of establishing an interest list, pre-applications will be accepted from any family wishing to apply for Housing Choice Voucher rental assistance. FH may select one or more of the following methods for applications:

1. Online
2. By phone
3. By mail
4. Submitted in person
5. By other method as described in the public announcement

At the time FH announces its intent to open the interest list, the actual methods for accepting pre-applications will be clearly stated in the public announcement and similar outreach methods.

If an applicant is disabled and requires special accommodation in submitting a pre-application and the disability is obvious or otherwise known, FH will accommodate the request without verifying the disability. Specific instructions for making a reasonable accommodation request will be included in the public notice and other pre-application outreach materials.

FH must remove an applicant from any other assisted housing programs before the applicant can receive HCV assistance; this is so there is no double subsidy.

Duplicate pre-applications, including pre-applications from a segment of an applicant household, will not be accepted.



### **2.5.1 APPLICATION BY WEB APPLICATION**

When this method is available, applicants can apply on-line @ [www.fresnohousing.org](http://www.fresnohousing.org). Pre-applications may only be submitted online using a computer, smart phone, tablet or other electronic device with Internet access.

### **2.5.2 APPLICATION INTAKE BY PHONE OR BY MAIL**

When this method is available, pre-applications will be taken by phone or mail. FH will record the date and time the pre-application is received.

### **2.5.3 APPLICATION INTAKE IN PERSON**

When this method is available, pre-applications will be completed by the family and FH will record the date and time the pre-application is received.

### **2.5.4 SPECIAL ADMISSIONS: ASSISTANCE TARGETED BY HUD**

[24 CFR 982.203]

If HUD awards FH program funding that is targeted for families living in specified units:

- FH must use the assistance for the families living in these units.
- FH may admit a family that is not on FH waiting list.
- FH must maintain records showing that the family was admitted with HUD-targeted assistance.

The following are examples of types of program funding that may be targeted for a family living in a specified unit:

- A family displaced because of demolition or disposition of a public housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses, or demolishes the project;
- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
- A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173);
- A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165);
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and

- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

### **2.5.5 TARGETED ADMISSIONS**

FH may admit an applicant for participation in the HCV program as a special admission or as a waiting list admission. Applicants who are admitted under targeted funding according to procedures will be identified in the automated system and are not maintained on separate waiting lists.

Refer to Chapter 27, Targeted Programs.

### **2.5.6 SEPARATE INTEREST LISTS FOR HOUSING AUTHORITY PROGRAMS**

In accordance with HUD regulations (24 CFR 982.205 (ii)) at the time an applicant is applying for HCV assistance, if pre-applications are being accepted for its Public Housing or Project-Based program, the family must be offered an opportunity to apply for the other program.

## **SECTION TWO: MANAGING THE INTEREST LIST**

### **2.6 APPLICATION**

[24 CFR 982.204]

Pre-applications will include the following information for the head of household and/or spouse/co-head:

- Social Security number
- First, middle initial and last name
- Date of birth
- Gender
- Race
- Ethnicity

#### Other information:

- The applicant may also provide the information stated above for other household members.
- The applicant may also identify whether any household member is a person with disabilities and/or a person with a mobility impairment needing an accessible unit (wheelchair accessible).
- Applicant Contact information will also be on the pre-application:
  - Street address, city, state and zip

- Contact phone number
- E-Mail Address

## **2.7 INTEREST LIST STRUCTURE**

Once the pre-application is completed on-line, FH will place all applicants on the interest list. Determination of eligibility will not be assessed until the full formal application process which is covered in Chapter 3 under Section Two, *The Full Application Process* and Section Three, *Determining Applicants Eligible or Ineligible*. Families will receive confirmation that their pre-application was accepted and all changes must be made on-line within 10 business days in the Applicant Portal. For persons with disabilities or other reasonable accommodations, see Chapter 1.13.

The interest list will be maintained in accordance with the following guidelines:

- to be placed on the interest list, pre-applications must include at a minimum the following information about each applicant: 1) name; 2) family size; 3) date and time of the completed pre-application; 4) information pertaining to possible qualification for a local preference; and 5) race and ethnicity of the head of household.

Any information indicating the applicant may qualify for a local preference (e.g., an applicant's certification that they reside within the jurisdiction qualifying them for the Residency Preference) will be accepted without verification at the pre-application stage. Actual entitlement for a local preference will be verified during the full application process.

## **2.8 APPLICANT STATUS WHILE ON INTEREST LIST**

[CFR 982.202 (c), 982.204]

Applicants are required to update their mailing address, email address and preferences using the online applicant portal within 10 business days of the occurrence. This will also assist FH in establishing and maintaining a current and updated interest list to more effectively plan for future pre-application intake. Applicants are also required to respond to requests from FH to update information on their pre-application, or to determine their continued interest in assistance.

The interest list will be maintained with accurate information.

If an applicant is disabled and requires a special accommodation in making changes to their pre-application and the disability is obvious or otherwise known, FH will accommodate the request without verifying the disability.



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

## **2.8.1 APPLICANT PORTAL**

The Applicant Portal has been established for persons who submit a pre-application with Fresno Housing (FH) so that they may create an on-line account to review and update their personal information, including their current address, as well as indicate their continued interest in remaining on the interest list. FH's method of communication with the applicant may be either by mail or electronic email, therefore, it is critical that applicants have a valid, current mailing address and email address at all times so that FH is able to make contact with the applicant when selected from the interest list.

## **2.9 REMOVING APPLICANT NAMES**

[24 CFR 982.204 (c)]

### **2.9.1 PURGING THE INTEREST LIST OR WAITING LIST**

The primary goal in purging a interest/waiting list is to obtain current information on interested applicants and to remove applicants no longer interested in participating in the program.

The interest/waiting list will be purged as needed to ensure that all applicants and applicant information is current and accurate. The status of the pre-application will be updated on the applicant online portal.

To update the interest/waiting list, FH may send an update request via first-class mail and/or email to each applicant on the interest/waiting list. The applicant will be asked whether they have continued interest in the program and FH will provide a deadline by which the family must respond. This update request will be sent to the last address and/or email that FH has on record for the applicant. If no response is received by the deadline, the applicant is removed from the interest/waiting list.

### **APPLICANTS ON MULTIPLE HCV INTEREST LISTS OR WAITING LISTS**

In order to eliminate duplicate processing of pre-applications for applicants who applied on both the City and County HCV lists, applicants are given the choice to remove their pre-application from the list from which they were not selected if they were successfully leased up in the other HCV program.

FH may also require applicants to register and create an online applicant portal account so FH may send an email. The applicant will be asked to access their online applicant portal account to **save their spot** on the interest/waiting list and

FH will provide a deadline by which the applicant must respond. If no response is received by the deadline, the applicant is removed from the interest/waiting list.

## **2.9.2 FINAL DRAW FROM THE INTEREST LIST**

FH may conduct a final draw from the interest list, or draw from the interest list as needed to maintain maximum voucher utilization. Applicants not included in the final draw will be cancelled from the interest list and notified by email. The status of the pre-application will be updated on the applicant online portal.

In all instances stated above, the pre-application will be updated to reflect the current status in the applicant portal.

## **2.10 GROUNDS FOR CANCELLATION FROM THE INTEREST/WAITING LIST**

FH may cancel the pre-application and remove the applicant from the waiting list when 1) the applicant does not respond to FH's request for response by a specific date, 2) failure to attend a scheduled appointment, 3) if a letter is returned by the Post Office, 4) or failure to log onto the online applicant portal to save their spot, 5) failure to complete process.

If a letter is returned by the Post Office or if the applicant does not save their spot via the online applicant portal, the pre-application will be canceled without further notice. The envelope and letter will be maintained in the file when applicable and/or a record of the email sent will be stored electronically.

Applicants may be reinstated after FH has conducted a review of the case and the applicant's request is approved. If the applicant did not respond to FH's request for information or updates, or failed to attend a scheduled appointment because of an applicant's disability, this fact will be verified and documented, and FH will reinstate the applicant in the former position on the waiting list or reschedule the missed appointment if funding is available.

## **CHAPTER 3: SELECTION FROM THE INTEREST LIST FOR ADMISSION**

[982.54(d)(1); 982.202 (d) 982.204, 982.205, 982.206, 982.207]

### **3.1 INTRODUCTION**

As vouchers become available for admission, FH will perform a draw from its interest list. Once the draw has been completed, selected applicants will be notified via USPS mail and email (if applicable) and applicants will be given an opportunity to update their information with FH. Preference information will be verified and updated before the applicant is invited to attend a briefing for voucher issuance [24 CFR 982.207]. For information about Applications and Interest List, refer to Chapter 2; or for information about Eligibility for Admission, refer to Chapter 4.

This chapter will describe the following policies:

- Selecting families from the interest list
- Establishing and verifying preferences
- Completing the full application for final eligibility determination
- Determining applicants are eligible or ineligible
- Completing the application process

### **SECTION ONE: CREATING AN APPLICATION POOL**

### **3.2 SELECTION FROM INTEREST LIST**

[24 CFR 982.204]

As vouchers become available, applicants on the interest list must be selected for assistance in accordance with the policies in this Plan.

It is FH's objective to pull names from the interest list within a reasonable amount of time and determine if the family is eligible for assistance. The information provided on the pre-application will be verified during this final eligibility process.

### **3.3 METHOD OF SELECTION**

[24 CFR 982.202(d) and 982.207 (c)]

FH selects applicants from the interest list using the lottery method. As vouchers become available, pre-applications will be randomly pulled from the interest list using a lottery system in order of preferences selected in the pre-application. Applicants with equal preference status will be organized by random order before

selecting from the next group of applicants with equal preference status, and so on and so forth.

After all complete and unduplicated pre-applications are received during the opening of the interest list, FH may complete a lottery random draw from the interest list as needed to maximize voucher utilization throughout the year and/or conduct a final draw. Applicants randomly selected from the interest list will be placed on the waiting list in order of the preferences and random assignment.

Applicants who are selected from the interest list will be placed on the waiting list and contacted by FH to complete a full application process. Applicants may not be placed on the waiting list if they refuse to complete the full application process.

FH will conduct its method of selection so there is a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in this administrative plan.

### **3.4 LOCAL PREFERENCES**

[24 CFR 982.207]

FH may establish local preferences based upon housing needs and priorities as determined by FH. These local preferences will be based on accepted data sources, after providing an opportunity for public comment, and will consider the public comments received.

Assistance is based on income verification, eligibility requirements, FH preference categories and selection method. Before the family is provided assistance, the family's eligibility for the preference is based on the current circumstances and will be verified.

If upon verification, FH determines that the family does not qualify for the preference(s) claimed their pre-application will be removed from the waiting list and canceled.

FH has established local preferences which will be given a cumulative point value to give priority to serving families that meet the preference criteria. Applicants with equal preference points will be randomized amongst other pre-applications with equal points.

#### **1. Residency Preference (15 Points)**

This local preference would continue to give a preference for applicants who live or work, or who is enrolled in school in the City and County of Fresno.

This is further defined to mean that an applicant must only meet one of the

following criteria to be eligible for the Residency Preference:

- The family must live in Fresno County, or
- At least one member must have a job within the limits of Fresno County, or
- Applicants who have been notified that they are hired to work in Fresno County must be treated as a resident, or
- At least one family member of the applicant household is currently enrolled in a Fresno County institution of higher education.

HUD regulations state that a residency preference must not be based on how long an applicant has resided or worked in a residency preference area.

## **2. United States Veteran's Preference (10 Points)**

This preference applies to active U.S. Armed Forces, veterans and their surviving spouses.

## **3. Elderly or Disabled Person Preference (10 Points)**

An elderly preference applies if the head, spouse or co-head is a person who is age 62 or older.

A disabled person preference applies if any family member is one or more of the following:

- Receives Social Security or Supplemental Security benefits or otherwise meets the definition of disabled as defined under Section 223 of the Social Security Act as follows:
  - 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 case of an individual who has attained the age of 55 and is blind inability by reason of such blindness to engage in substantial gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a physical, mental or emotional handicap which:
  - Is expected to be of long and indefinite duration
  - Substantially impeded his/her ability to live independently; and
  - Is of such a nature that the person's ability to live independently could be improved by more suitable housing

- Has a developmental disability as defined in Section 102(7) of the Developmental Assistance and Bill of Rights Act. Developmental disability is defined as a severe, chronic disability which:
  - Is attributable to a mental and/or physical impairment; Was manifested before the age of 22;
  - Is likely to continue indefinitely;
  - Results in substantial functional limitations in three or more of the following areas: capacity for independent living; self- care; receptive and expressive language; learning; mobility; self-direction; and economic self-sufficiency; AND
  - Requires special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

A family may receive no more than 10 total points for the Elderly or Disabled Person preference category.

#### **4. Family with Minor Children Preference (10 Points)**

This preference applies to applicant families with minor children under age 18 who meet HUD and FH's definition of a family member. Minor children of a live-in aide do not qualify the family for this preference. Minor foster children of an authorized adult member of the applicant household do not qualify the family for this preference.

#### **3.4.1 DISPLACEMENT REFERRALS**

This preference is subject to the approval of the Executive Director. FH may distribute application forms and may issue a voucher subject to availability to families or single persons that are referred by local governmental officials. The types of referrals that will be considered include, but are not limited, to:

- Persons displaced as the result of a government-declared natural disaster
- Persons displaced as the result of governmental action.
- Victims under VAWA Reauthorization Act of 2013
- Victims under witness protection programs

Referrals must be made in writing, on financial institution letterhead or governmental letterhead, and signed by the requesting official and his or her immediate supervisor. Eligibility, including background checks, will be confirmed



for all members.

These preferences are available even when the interest list is closed to other applicants.

Applicants who have vacated housing as a result of:

- a. A Natural disaster that has been so declared by a local, state, or federal government entity (fire, flood, earthquake, etc.) verification to be provided by:
  - **Verification:** Certification from a unit of government concerning displacement due to disaster.
- b. Federal, State or local government action related to code enforcement, public improvement or development. Verification to be provided by:
  - **Verification:** Certification from a unit of government concerning displacement due to code enforcement, public improvement or development, and coordinate referral with FH;
- c. Victims of domestic violence, dating violence, sexual assault, or stalking who either:
  1. Have vacated due to actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member, or
  2. Live in housing with an individual who engages in such violence. Such "actual" or "threatened" violence must have occurred recently or be of a continuing nature. An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced.
  3. As a result of an emergency transfer from another PHA or HUD covered housing program in accordance with Exhibit 16.5 VAWA policy.
  - **Verification:** Police report or other legal documentation, social service agency, court records, physician statements, public or private shelter or counseling facility; written verification from that entity would be required.
- d. Victims under witness protection programs: Applicant, or member of applicant family, has been advised by a law enforcement agency to relocate to minimize risk of violence against family members as a result of providing information on criminal activities to a law enforcement agency. Proper

safeguards will be provided by the PHA to conceal the identity of families requiring protection against such reprisal. Verification to be provided by Law Enforcement Agency.

- **Verification:** Documentation by a law enforcement agency recommending the relocation of the household to avoid or minimize the threat of violence or reprisal to or against the household member(s) for providing such information.

### **3.4.2 LIMITED PREFERENCE HOMELESS**

Approximately 310 vouchers are targeted for limited preferences. These vouchers are targeted for families/individuals in homeless assistance programs and/or initiatives; or special purpose voucher programs, when necessary to prevent homelessness or promote ending homelessness, based on referrals from identified agencies with whom we would partner.

### **3.4.3 PREFERENCE DENIAL**

[24 CFR 982.207]

If upon verification FH determines that the family does not qualify for the preference claimed, the family does not receive the preference and their pre-application may be canceled or put back on the interest list; unless the family was selected during the final draw, in which case the pre-application may be cancelled. The family will be notified in writing and advised of the family's right to request an informal review. For additional information refer to Chapter 19.3, Informal Review Procedures for Applicants.

### **3.4.4 HOUSING ACCESS AND REENTRY PILOT PROGRAM**

FH may consider adopting policies that allows individuals formerly incarcerated to live with their families in assisted housing, while receiving supportive services. An individual who would otherwise be ineligible for assisted housing assistance must have been referred to FH by any partnering agency and may be considered for housing based on adjusted policy criteria associated with the programs suitability standards, to exclude any period of time from the date of the offense as indicated in Section 4.19. This reentry pilot program proposes to allow approximately 25 individuals to enter FH as a newly admitted household (See Section 4.3). There is no proposed cap on the number of individuals allowed to enter FH for the purpose of rejoining other family member households.

Exceptions to the suitability standards would not be extended to the following HUD required denials [24 CFR 960.204] to the following individuals:

- Persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing;
- Any person subject to a life time registration requirement under a state sex offender registration program.

### **3.4.5 Workforce Stability Limited Preferences**

FH would make available 50 vouchers in the City and 50 vouchers in the County through a limited preference to support workforce stability and the region's upskilling initiatives. Referrals would come from a wide variety of partner agencies including those engaged in the Developing the Region's Inclusive and Vibrant Economy (DRIVE) Human Capital initiatives related to job training or upskilling programs. As households choose to enroll in time consuming employment training

programs, they will have simultaneous access to housing supports to ensure stability during their upskilling process.

Details of criteria and the referral process will be developed and outlined in an agreement/MOU with referring partner agencies who would identify individuals through their employment and training programs. Participants in need of housing stability to successfully complete training program or secure and/or maintain employment post-completion of the training program, will be targeted.

The workforce stability limited preference would provide housing assistance to 100 in the region (50 in the City PHA and 50 in the County PHA) extremely low- and low-income households. Implementing a limited preference for workforce stability would help drive inclusive, economic growth in Fresno, ranked 55th out of 59 California cities in economic health, qualifying as distressed in overall inclusion. (Urban Institute)

## SECTION TWO: THE FULL APPLICATION PROCESS

### 3.5 FULL APPLICATION COMPLETION

HUD recommends obtaining the information and documents needed to make an eligibility determination through a face-to-face interview.

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

Applicants will be required to complete an Application for Initial Occupancy packet which **may be** mailed to the applicant in advance to complete.

Being invited to attend an interview does not constitute admission to the program. The head of household and spouse may both be required to attend the interview.

Applicants who want to reschedule an appointment must make the request to reschedule no later than 2 days prior to the original appointment date. If the applicant does not reschedule or misses one scheduled meeting, FH will reject the application.

The family will be required to provide the following information for each family member within the household:

- Applicant name
- Family composition
- Racial or ethnic designation of the head of household
  - Names, gender and birth dates for all members DOB
  - Relationship to head of household
  - Street Address and phone numbers (message and contact numbers)
  - Mailing Address (If PO Box or other permanent address)
  - Amount(s) and source(s) of income received by all household members
  - Assets
  - Information regarding disabilities to determine qualifications for allowances and deductions
  - Information related to qualification for preferences
  - Social Security Numbers
  - Citizenship/eligible immigration status
  - Answers to questions regarding arrests/convictions for drug-related or violent criminal activity or child molestation
  - If applicable, a Request for Specific Accommodation, if needed by a person with disabilities in order to fully utilize program and services
  - Current and previous addresses
  - Emergency contact person and address
  - Questions regarding previous participation in HUD programs

### **3.6 VERIFICATION**

[24 CFR 982.201(e)]

All adult members must sign and complete the Initial Questionnaire, HUD Form 9886 (Release of Information), Form HUD-92006, the Declaration of Section 214 Status related to citizenship/immigration and any other documents required by FH. Applicants will be required to sign specific verification forms for information which is not covered by the HUD Form-9886.

Applicants will be required to provide necessary verification which may not be more than 60 days old from the date of the initial eligibility interview. All information provided by the applicant, will be verified, using the verification procedures described in Chapter 7. If information is not supplied or if the family fails to sign any of the forms required, the application may be denied. These and other grounds

for denial of admission are described in Chapter 4.

As part of the full application process, FH will verify the family's eligibility for a local preference based on current circumstances and conduct a criminal background screening.

If the information is not supplied or if the family fails to sign any of the forms required, the application may be denied. These and other grounds for denial of admission are described in Chapter 4.

After the verification process is completed, FH will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by FH, and the current eligibility criteria in effect.

### **SECTION THREE: DETERMINING APPLICANTS ELIGIBLE OR INELIGIBLE**

#### **3.7 WAITING LIST ESTABLISHMENT**

[24 CFR 982.204 and 205]

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

#### **3.8 FINAL ELIGIBILITY DETERMINATION**

[24 CFR 982.201]

Each applicant will be interviewed by FH staff to review the information on the application for Initial Occupancy Packet.

If FH determines at or after the interview that additional information or document(s) are needed, FH will request the document(s) or information in writing. The family will be given 10 business days to supply the information. Extensions beyond 10 business days may be permitted upon approval of the intake staff member. If the information is not supplied in this time period, FH will provide the family a notification of denial for assistance.

#### **3.9 COMPLETING THE APPLICATION PROCESS**

If the family is determined eligible and clearance is received from the criminal background checks for all household members, the family will be notified of the approximate time that assistance should be available. The eligible applicants will be required to attend a briefing appointment.

## CHAPTER 4: ELIGIBILITY FOR ADMISSION

### 4.1 INTRODUCTION

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

FH is responsible for ensuring that every individual and family admitted to the Housing Choice Voucher (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 FH to confirm eligibility and determine the level of the family's assistance. This chapter also covers the grounds for denial of admission and screening for criminal background checks related to this program.

This chapter is divided into three sections.

**Section One:** This section contains HUD and FH definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

**Section Two:** This section discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

**Section Three:** This section covers factors related to denial of assistance and criminal background checks.

### SECTION ONE: ELIGIBILITY FACTORS AND DEFINITIONS

### 4.2 ELIGIBILITY FACTORS AND REQUIREMENTS

There are five eligibility requirements for admission to the HCV program. An applicant must:

- Qualify as a family;
- Have income within the income limits;
- Meet citizenship/eligible immigrant criteria;
- Provide documentation of Social Security Numbers for each household member; and
- Sign consent authorization documents for each adult in the household.

In addition to the above, in order for a family to be determined eligible FH will conduct criminal background checks using but not limited to FBI finger printing, DOJ Lifetime Sex Offender, and County and Statewide Criminal searches in accordance with this chapter. A family may be denied assistance if the results

show evidence which would prohibit admission to the HCV program. For more information, see Chapter 4.3. All information provided by the applicant, will be verified, using the verification procedures described in Chapter 7.

#### **4.2.1 Enterprise Income Verification (EIV) System at Admission**

- Existing Tenant Search and Avoiding Duplicate Subsidy
- 120-day EIV Report: income and identity review

#### **4.3 FAMILY AND HOUSEHOLD**

[24 CFR 5.403 FR 02/03/2012 and HUD-50058 IB, p. 13]

The terms family and household have different meanings in the HCV program. A family includes but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- A group of persons residing together and such group includes, but is not limited to:
  - A family with or without children; (A child who is temporarily away from the home up to 18 months, due to placement in foster care should be considered a member of the family);
  - An elderly family; which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age; or two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides;
  - A near elderly family; which means 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, who are 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;
  - A disabled family; which means a family whose head, co-head, or sole member is a person with a disability; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.
  - A displaced family; which means a family in which each member, or whose sole member, is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized by Federal disaster relief laws; and



- The remaining member of a tenant family.
- A remaining member of a resident family, meaning a family member of an assisted resident family who remains in the unit when other members of the family have left the unit.

**FH Additional Definition of Family:**

- A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual’s income and other resources will be available to meet the needs of the family. Refer to see the section regarding verification of family relationships in Chapter 7 of this administrative plan.

**4.4 DEFINITIONS RELATED TO FAMILY COMPOSITION**

- Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family’s composition changes. Neither the application nor voucher can be issued to individuals not listed on the pre-application when the original HOH is no longer interested in receiving assistance.
- “Household” is a broader term that includes additional people who, with FH’s permission lives in the assisted unit, such as live-in aides, foster children, and foster adults.

**4.4.1 HEAD OF HOUSEHOLD**

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

**4.4.2 SPOUSE OF HEAD**

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

**4.4.3 CO-HEAD**

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

When an applicant lists a co-head on the initial application, the leasing staff member will ask the applicant to clarify the relationship with the co-head. If the co-head is a spouse or partner, the co-head will be treated as such.

#### 4.4.4 LIVE-IN AIDE

[24 CFR 5.403 and *Live-In Aides and HCV Program HUD Fact Sheet 2003*]

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

- Is determined by FH to be essential to the care and well-being of an elderly person, near-elderly (50-61) person, or a person with disabilities,
- Is not obligated for the support of the person(s),
- Would not be living in the unit except to provide care for the person(s), and
- Must be a specific person, who after being approved by FH, will live in the unit as his or her primary residence.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above. Once a live-in aide is approved, the family must identify a person as the live-in aide within 30 calendar days of the approval to allow FH to conduct a background check. Thirty-day extensions may be granted up to 120 days to allow the family time to identify a live-in aide. In the event a live-in aide cannot be identified the voucher size may be reduced by processing a special recertification. If the family later identifies a live-in aide, a special recertification may be processed which may change the anniversary date of the family's annual recertification. The same allotment of time also applies when the family must replace a current live-in aide.

The owner of an assisted unit may never be a live in aide for the family.

Occasional, intermittent, multiple or rotating caregivers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for a live-in aide under these circumstances. Program guidance from HUD does provide that on a case-by-case basis an exception to this rule may be granted as explained below:

A family may always request a reasonable accommodation to permit program participation by individuals with disabilities. A family's composition or circumstances may warrant the provision of an additional bedroom to permit disability-related overnight care and allow the family equal use and enjoyment of the unit. Such limited exceptions to the established subsidy standards are permitted under 24 CFR Section 982.402(b)(8). The PHA will consider requests for an exception to the established subsidy standards on a case-by-case basis and provide an exception, where necessary, as a reasonable accommodation. The PHA shall document the justification for all granted exceptions.

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

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Non-Citizen Rule requirements.
- Live-in aides are not considered a remaining member of the tenant family, which means that they are not entitled to retain the voucher if the eligible family member(s) voluntarily leave the program, are terminated from the program, or have a voucher that expires.

#### **4.5 VERIFICATION OF NEED FOR A LIVE-IN AIDE**

A live-in aide may only reside in the unit with the approval of FH. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly (age 62 or older), near-elderly (50-61) or a person with disabilities. See Glossary for person with disabilities.

#### **4.6 APPROVAL OR DISAPPROVAL OF A PARTICULAR PERSON AS A LIVE-IN AIDE**

A live-in aide may only reside in the unit with the approval of FH. At any time, FH may refuse to approve a particular person as a live-in aide or may withdraw such approval if:

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity;
- The person currently owes rent or other amounts to FH or to another housing authority in connection with Section 8 or public housing assistance under the 1937 Act;
- The person does not pass FH's criminal background check requirements; or
- Does not reside in the unit, but has a residence elsewhere

#### **4.7 APPLICANT FAMILY BREAK-UPS**

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L, the FH must ensure that the victim retains assistance.

FH shall have discretion to determine which members of an applicant family will be issued the voucher. FH will require information to determine who will be issued the voucher.

Other factors to be considered in making this decision includes:

- The interest of minor children or of ill, elderly or disabled family members.
- Whether family members are forced to separate as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking.
- Whether any of the family members are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking, and whether

the abuser is still in the household.

- Which household meets all eligibility criteria.
- Restrictions that were in place at the time the family applied.
- Recommendations of social service agencies or qualified professionals such as Fresno County Child Welfare Services.

Documentation of these factors is the responsibility of the applicant families.

If documentation is not provided, the applicant(s) may be denied placement on the waiting list or denied voucher issuance for failure to supply information requested by FH.

#### **4.8 MULTIPLE FAMILIES IN THE SAME HOUSEHOLD**

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

#### **4.9 JOINT CUSTODY OF CHILDREN**

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. The term, "51% of the time" is defined as 183 days of the year, which do not have to run consecutively. When both parents are on the Waiting List and both are trying to claim the child, additional verification pertaining to the care of the child (e.g., court documents, financial documents, CalWorks, etc.) may be required to determine who may claim the child as a dependent.

### **SECTION TWO: BASIC ELIGIBILITY CRITERIA**

After determining the applicant meets the definition of family as described in this chapter, the following eligibility criteria must also be met.

#### **4.10 INCOME LIMITATIONS**

[24 CFR 982.201, 982.353, Federal Register Vol.79, No. 122/ 06-25-14]]

In order to determine if the family is income-eligible, FH compares the annual income of the family to the applicable income limit based on the family's size. Except as listed in the low-income categories below, families must have incomes at or below 50% of the Area Median Income.

**Income Targeting Requirements.** For each fiscal year, not less than 75% of its new admissions must have incomes at the greater of the Federal poverty level or

30 percent of area median income. In addition the new ELI limits cannot exceed the Very Low-Income (VLI) limits; therefore, in some cases the ELI limits are identical to the VLI. Tracking will be done to ensure FH does not exceed these income targeting limits. Families whose annual income exceeds the income limit will be denied admission and offered an informal review. For income targeting purposes, if a family's income at admission qualifies it under both the ELI limits and the VLI limits, the family will be qualified under the ELI limits.

In order to be eligible for assistance, an applicant must be either:

- A very low-income family; or
- A low-income family in any of the following categories:
  - A low-income family that is continuously assisted under the 1937 Housing Act. (An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 90 days of voucher issuance. Programs include Public Housing, all Housing Choice programs, and all Section 23 programs).
  - A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
  - A low-income non-purchasing family residing in a project subject to a resident homeownership program under 24 CFR 248.173.
  - A low-income or moderate-income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.
  - As a local policy, FH will permit admission of additional categories of low-income families who meet the requirements specified in Chapter 3 of the Plan, "Referrals from Law Enforcement Agencies" and "Displacement Referrals from Governmental Entities".

#### **4.10.1 PORTABILITY**

For initial lease-up, families who exercise portability must be within the very low-income limit for the jurisdiction of the receiving housing authority in which they want to live. For more information related to portability refer to Chapter 13.

#### **4.11 MANDATORY SOCIAL SECURITY NUMBERS**

[24 CFR 5.216, 5.218]

Applicant families may not be admitted until all members of the household have met the SSN disclosure and documentation requirements. [Refer to Ch. 7 for SSN

Verification Requirements].

#### **4.12 CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

[24 CFR Part 5, Subpart E]

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD in 24 CFR 5.504 and 5.508. For the citizenship/eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined. [Refer to Ch. 7 for Verification Requirements for determining Citizenship/Eligible Immigration Status].

##### **4.12.1 MIXED FAMILIES**

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

##### **4.12.2 NO ELIGIBLE MEMBERS**

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

##### **4.12.3 NON-CITIZEN STUDENTS**

Defined by HUD in the non-citizen regulations are not eligible for assistance.

##### **4.12.4 APPEALS**

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

##### **4.12.5 WHEN TO VERIFY CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

Evidence of citizenship/eligible immigrant status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a voucher, unless FH determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

#### **4.13 FAMILY CONSENT TO RELEASE OF INFORMATION**

[24 CFR 5.230, HCV GB, p. 5-13]

HUD requires consent by assistance applicants and participants. Each member of the family of an assistance applicant or participant who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more



consent forms: HUD-9886, Authorization for the Release of Information/Privacy Act Notice and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

#### 4.14 STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

[24 CFR 5.612]

The implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both full and part 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, not a veteran, is not married and does not have a dependent child and is not a person with disabilities receiving HCV assistance as of 11/20/05 the student eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined **independent** from his/her parents and accordance with FH policy, the income of the student's parents will not be considered in determining the student's eligibility.

##### Definition of "Independent Student"

This notice brings HUD's guidance into conformity with the updated HEA definition and ED's definition of "independent student." ED's definition of "independent student" is one of the criteria in HUD's 2006 supplementary guidance for PHAs, owners and managers to use in verifying whether a student is "independent." Specifically, HUD is updating the definition of "independent student" to include the more expansive definition found in HEA, as amended by the College Cost Reduction and Access Act of 2007.

ED's definition of "independent student", which now applies is:

- a. The individual is 24 years of age or older by December 31 of the award year;
- b. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;
- c. 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;
- d. The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;

- e. The individual is a graduate or professional student;
- f. The individual is a married individual;
- g. The individual has legal dependents other than a spouse;
- h. 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 (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 *et seq.*), or as unaccompanied, at risk of homelessness, and self-supporting, by—
  - (i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;
  - (ii) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
  - (iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
  - (iv) a financial aid administrator; or
    - i. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

#### **4.15 RESTRICTION ON ELIGIBILITY OF STUDENTS**

[24 CFR 5.612]

The student rule applies to all students who are applying as individuals, apart from their parents. The rule applies to students enrolled as a full or part-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential.

This does not apply to the following students:

- Students who are living with his/her parents
- Students who are applying for or receiving Section 8 assistance
- Students who are classified as a Vulnerable Youth
- Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

No assistance shall be provided to any individual student who meets the following criteria:

- Is enrolled as a student at an institution of higher education, as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C.1002), and is
- Under the age of 24,
- Not a veteran,
- Unmarried, or
- Does not have a dependent child.

Unless the student is determined independent from his or her parents, the eligibility of a student seeking assistance will be based on the income of both student and the parents. The student must be determined income eligible for assistance based on whether the student's parents, individually or jointly, are income eligible for assistance. Both the student's income and the parent's income must be separately assessed for income eligibility.

HUD defines "*parents*" for the purposes of Section 8 programs to mean the biological or adoptive parents, or guardians (e.g., step-parents, grandparents, aunt/uncle, godparents, etc.). FH will adopt this definition without adding any further stipulations.

FH will adopt the following definition of "*veteran*" for the purposes of this section to mean a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.

### **SECTION THREE: DENIAL OF ASSISTANCE**

This section describes the reasons why an applicant may be denied assistance.

A family that does not meet eligibility requirements will be notified in writing of the reason for denial and given an opportunity to request an informal review; or an informal hearing if they were denied due to non-citizen status. See Chapter 19, "Reviews, Hearing and Other Appeals" for additional information about reviews and hearings.

This section also describes FH's policy regarding conducting criminal background checks which may result in the denial of admission.

#### **General Definitions** [24 CFR 5.100]:

HUD and FH have defined the following:

**Covered person** for purposes of 24 CFR 5, subpart I, and parts 966 and 982, means a tenant, any member of the tenant’s household, a guest or another person under the tenant’s control.

**Drug** means a controlled substance as defined in Section 102 of the Controlled Substance Act 21 U.S.C 802).

**Drug-related criminal activity** (as defined in Section 102 of the Controlled Substances Act 21 U.S.C 802) is the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

**Violent criminal activity** means any illegal 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].

**Other criminal activity** means any criminal activity including, but not limited to, violent criminal activity.

**Currently engaged in** means any use or possession of illegal drugs during the previous twelve months.

**Pattern of abuse** is defined as the use and/or possession of a controlled substance or alcohol if there are more than three incidents during the previous 24 months. “Incident” includes but is not limited to arrests, convictions, no contest pleas, fines, and city ordinance violations.

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

#### **4.16 DENIAL OF ASSISTANCE, WHEN IT APPLIES**

Denial of assistance includes any of the following [24 CFR 982.552(a)(2):

- 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

#### **4.17 PROHIBITED ADMISSION CRITERIA**

[24 CFR 982.202(b)]

Denial of admission to the program may not be based on:

- 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 FH's jurisdiction (See Chapter 13, Portability.)
- Certain family characteristics, such as:
  - Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
  - Discrimination because a family includes children;
  - Discrimination because of age, race, color, religion, sex, or national origin;
  - Discrimination because of disability;
  - Whether a family decides to participate in a family self-sufficiency program; or
  - Whether or not a qualified applicant has been a victim of domestic violence, dating violence, or stalking.

#### 4.18 MANDATORY DENIAL OF ASSISTANCE

[24 CFR 982.553(a)]

HUD regulations require mandatory denial of assistance for the reasons listed below, with the following clarifiers:

1. ***Methamphetamine*** – if any member of the household has ever been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing [24 CFR 982.553 (a)(1)(ii)(C)].
2. **Lifetime Registration** - If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program [24 CFR 982.553 (a) (2)].
3. ***Criminal Activity (Drug-Related)*** - Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. However, FH will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if FH is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by FH; or that the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned) [24 CFR 982.553 (a) (1)(i)]
4. ***Current illegal drug use for any household members*** – if FH determines

that any household member is currently engaged in any illegal use of a drug [24 CFR 982.553 (a) (1) (ii) (A)].

5. **A pattern of illegal use of a drug** – if FH determines that it has reasonable cause to believe that a household member’s illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents [24 CFR 982.553 (a) (1)(ii) (B)]. Admission will be prohibited for up to three years from the date of the offense.
6. **Alcohol Abuse** – if FH determines that a 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 and persons residing in the immediate vicinity of the premises [24 CFR 982.553 (a) (3)]. Admission will be prohibited for three years from the date of the offense.
7. **Consent Forms** - FH will deny admission if any member of the family fails to sign and submit HUD or FH-required consent forms for obtaining information [24 CFR 982.552 (b) (3)].
8. **Citizenship Status** - FH will deny program assistance if no member of the family is a U.S. citizen or eligible immigrant (See Chapter 14) [24 CFR 982.552 (b) (4)].
9. **Social Security Numbers** – The eligibility of an assistance applicant must be denied if a) s/he does not disclose a SSN and/or provide documentation of such SSN as prescribed in Chapter 7. [PIH 2011-2]; or b) if applicant supplies falsified SSN documentation [PIH 2018-24].
10. **Students in Higher Education** -- If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as described in this chapter; [24 CFR 982.552 (b) (5)].

#### 4.19 ADDITIONAL PROHIBITIONS

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

FH may at any time deny program assistance for any of the following reasons:

- Family Violates Any Family Obligations: If the family violates any family obligations under the HCV program as defined in CFR 24 982.551” [24 CFR 982.552 (c) (1) (i)];
- Evicted from Federally Assisted Housing: If any member of the family has ever been evicted from federally assisted housing in the last five years [24 CFR 982.552 (c) (1) (ii)];
- Past Termination from a FH Program: If FH has ever terminated assistance under the program for any member of the family [24 CFR 982.552 (c) (1) (iii)];

- Fraud, Bribery, or Other Corrupt or Criminal Act Within a Federal Housing Program: If any family member has committed such acts in connection with a Federal housing program [24 CFR 982.552 (c) (1)].
- Outstanding Debt: If the family currently owes rent or other amounts to FH or to another housing authority in connection with Section 8 or public housing assistance under the 1937 Act [24 CFR 982.552 (c) (1) (v)];
- Non Reimbursement to FH for payments to owners: If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease [24 CFR 982.552 (c) (1) (vi)].
- Repayment Breach with a Housing Authority: If the family breaches an agreement with FH to pay amounts owed to FH, or amounts paid to an owner by FH. (FH, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to FH or amounts paid to an owner by FH. FH may prescribe the terms of the agreement) [24 CFR 982.552 (c) (1) (vii)]
- Actual or Threatened Abusive or Violent Behavior Toward FH Personnel: If the family has engaged in or threatened abusive or violent behavior toward FH personnel [24 CFR 982.552 (c) (1) (ix)]. “Abusive or violent behavior toward FH personnel” includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language (written or oral) that is customarily used to insult or intimidate, may be cause for denial of admission.
- Fraud Against Another Agency: Misrepresentation of income or other eligibility factors to an agency other than FH, for example welfare fraud, is grounds for denial of assistance.
- Non-compliance with any assistance programs, governmental agency and/or law enforcement.
- An applicant’s misrepresentation of any information related to eligibility, preferences, housing history, allowances, family composition, and/or criminal history.
- Pattern of violent behavior- includes evidence of repeated acts of violence on the part of any individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors. Actual physical abuse or violence will always be cause for denial of admission.

**Criminal Activity** - [24 CFR 982.553] HUD permits, but does not require, the PHA



to deny assistance if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before admission, certain types of activity.

**FH Policy** - FH may prohibit admission of a household to the program if FH determines that any household member has a history of any of the following prior to admission:

- a. Drug-related criminal activity; up to three years from the date of the offense.
- b. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; up to three years from the date of the offense.
- c. Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of FH (including a FH employee or a FH contractor, subcontractor or agent); up to three years from the date of the offense.
- d. Violent criminal activity; up to five to seven years from the date of the offense, depending upon the seriousness of the crime committed.
- e. Convicted of any felony; up to three years from the date of the offense.

Although an arrest record cannot solely be used for denying or terminating program assistance, an arrest record can trigger an inquiry into whether there is sufficient evidence for the FH to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. FH will utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct is fact occurred [PIH 2015-19].

#### **4.20 SCREENING FOR ADMISSION**

[24 CFR 982.552, 982.553, 5.903, 5.905]

FH must prohibit admission to the program of an applicant for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. HUD requires FH to set screening standards to ensure that those persons who are prohibited from being admitted to the program will not receive assistance.

##### **4.20.1 SCREENING STANDARDS**

Screening will occur after an applicant family has been pulled from the waiting list. All adults (age 18 and above) in the applicant household, including live-in aides, and all incoming families porting into FH's jurisdiction must go through the screening process.

The family will be required to disclose criminal/drug-related activity for all family members at the time of completing their full application. All adult family members must submit a signed Criminal Background Consent form. During the criminal background checks, FH will also check for persons subject to a lifetime registration requirement under a State sex offender registration program.

When conducting a background check FH will obtain the following reports:

1. Criminal background report
2. Sex offender report

When conducting a background check FH may obtain the following reports:

- Credit Report
- Eviction report

#### **4.20.2 FACTORS RELEVANT TO FH CRIMINAL BACKGROUND & EVICTION SCREENING**

Prior to making a final determination as to admission relevant to FH criminal background and eviction screening, FH will consider factors such as disclosure, completion of rehabilitative treatment for drug-related offenses, and type and longevity of the conviction will be considered. A criminal conviction alone may not necessarily result in the denial of assistance.

#### **4.20.3 GRIEVANCE RIGHTS WHEN FH DECISION IS TO DENY ADMISSION**

If FH obtains criminal record information from a State or local agency showing that a household member has been convicted of a crime relevant to applicant screening, FH will notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant or tenant a copy of such information, and an opportunity to dispute the accuracy and the relevance of the information. This opportunity must be provided before a denial of admission on the basis of such information.

If denied as a result of the criminal background check, FH will send a written notification of the denial which will include:

- The reason for the denial,

- The right of an individual to review the evidence regarding his criminal background which was the basis of the denial,
- An explanation of the right to request an informal review, and
- A description of how to obtain the informal review.
- VAWA forms 5380 and 5382

The family will be given 10 business days from the date of FH notice, to dispute the accuracy and relevance of the information. If the family does not contact FH to dispute the information within that 10 business day period, FH will proceed with the denial action.

#### **4.20.4 RECORDS MANAGEMENT**

[24 5.903 (g)]

Consistent with the limitations on disclosure of records, FH has established and implemented a system of records management that ensures that any criminal record received by FH from a law enforcement agency is:

- Maintained confidentially;
- Not misused or improperly disseminated; and
- Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to FH action without institution of a challenge or final disposition of any such litigation.

All eviction and criminal background history is retained by the contracted provider. FH will not print search results unless there is a need to due to an applicant's request for an Informal Review or as needed for review.

Credit reports will be kept in the applicant or participant file for three years.

A copy of the Criminal Background Consent form along with the approval/denial status will be kept in the applicant file.

#### **4.21 CONSIDERATION OF CIRCUMSTANCES**

HUD authorizes FH to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 4.17).

In deciding whether to deny assistance because of action or failure to act by members of the family; FH has [24 CFR 982.552 (c) (2)]:

1. Discretion to consider all relevant circumstances in each case, including the

seriousness of the case. FH will use its discretion in reviewing the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the passage of time since the family's action or failure to act.

2. When the ground for denial of assistance is related to criminal activity, such factors as disclosure of the criminal act, completion of rehabilitative treatment for drug-related offenses, and type and longevity since the conviction will be considered.
3. FH may also review the family's more recent history and record of compliance, and the effects of denial of admission on other family members who were not involved in the action or failure to act [24 CFR 982.552 (c) (2) (i)].
4. FH may impose a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. FH may permit the other members of a family to be admitted to the program [24 CFR 982.552 (c) (2) (ii)]. If the violating member is a *minor*, FH may consider individual circumstances with the advice of Juvenile Court officials. FH will also consider whether the culpable member is a victim of domestic violence, dating violence, or stalking.
5. In determining whether to deny admission for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, FH [24 CFR 982.552 (c) (2) (iii)]:
  - Will 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).
  - May require the family to submit evidence of the household member's current participation, or successful completion of a supervised drug or alcohol rehabilitation program.
6. *Reasonable Accommodation*: If denial is based upon behavior resulting from a disability, FH will delay the denial in order to determine if there is an accommodation which would negate the behavior resulting from the disability in accordance with 24 CFR Part 8 of this title.
7. FH will also consider whether the family disclosed the information to FH when completing the certification packet.
8. If an applicant is or has been a victim of domestic violence, dating violence or stalking, this is not an appropriate basis for denial of admission, if the applicant otherwise qualifies for admission.

If the family intentionally, willingly and knowingly commits fraud or is involved in any

other illegal scheme with the owner, FH will deny assistance. In making this determination, FH will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

#### **4.21.1 REQUIRED EVIDENCE**

FH will use the concept of the preponderance of the evidence as the standard for making all denial decisions.

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

1. *Preponderance of evidence* will not be determined by the number of witnesses, but by the greater weight of all evidence.
2. *Credible evidence* may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants. FH will pursue fact-finding efforts as needed to obtain credible evidence.

#### **4.22 INFORMAL REVIEWS**

[24 CFR 982.554]

Details regarding the informal review process and how to request one are covered in Chapter 19.

## CHAPTER 5: SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

### 5.1 INTRODUCTION

HUD guidelines require that FH establish subsidy standards for the determination of voucher bedroom size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the voucher size also must be within the minimum unit size requirements of HUD's Housing Quality Standards; (HQS); (refer to Chart 5-B in this Chapter). This chapter explains the subsidy standards which will be used to determine the subsidy/voucher size for families of different sizes when they are first determined eligible for the HCV program; as well as FH's procedures when a family's size changes, or a family selects a unit size that is different from the voucher.

### 5.2 SUBSIDY/VOUCHER SIZE

[24 CFR 982.402]

**FH does not determine who shares a living/sleeping room.** FH's subsidy standards for determining the family unit size shall be applied in a manner consistent with Fair Housing guidelines. **All standards in this section relate to the size of the subsidy, not the family's actual living arrangements.**

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

HUD regulations stipulate the following about FH's subsidy standards:

- The subsidy standards must provide for the smallest number of bedrooms (referring here to the subsidy) needed to house a family without overcrowding.
- They must be consistent with space requirements under HQS, which require at least one living/sleeping room for every two persons.
- They must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home up to 18 months, due to placement in foster care should be considered a member of the family.
- 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 FH to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in

determining the family unit size. FH will not approve an unidentified live-in aide; nor a larger unit than the family qualifies for under FH subsidy standards, for an unidentified aide.

Generally, FH assigns one living/sleeping room to each two people within the following guidelines:

- Live-in aides will be provided a separate bedroom if the assisted unit is the aide’s primary residence. No additional bedrooms are provided for the aide’s family.
- Additional family members of the live-in aide may not be approved if it would result in the violation of HQS.
- A single person will be allocated a one bedroom voucher.
- A separate bedroom will be issued to the head of household (with spouse or co-head, if any) and one bedroom to every two persons, thereafter.

**Chart 5-A: Guidelines for Determining Voucher Size**

<b><u>Voucher Size</u></b>	<b><u>Persons in Household</u></b>	<b><u>Persons in Household</u></b>
	<b><u>(Minimum #)</u></b>	<b><u>(Maximum #)</u></b>
<b><u>1 Bedroom</u></b>	<b><u>1</u></b>	<b><u>2</u></b>
<b><u>2 Bedrooms</u></b>	<b><u>2</u></b>	<b><u>4</u></b>
<b><u>3 Bedrooms</u></b>	<b><u>4</u></b>	<b><u>6</u></b>
<b><u>4 Bedrooms</u></b>	<b><u>6</u></b>	<b><u>8</u></b>
<b><u>5 Bedrooms</u></b>	<b><u>8</u></b>	<b><u>10</u></b>
<b><u>6 Bedrooms</u></b>	<b><u>10</u></b>	<b><u>12</u></b>

FH will analyze its subsidy standards and voucher issuance policy to ensure it meets HUD requirements to expend HAP within its eligible Budget Authority, including HAP reserves, and to maintain unit months leased within its authorized

voucher allocation. Changes to the subsidy standards will be implemented with a memo from the Executive Director or his/her designee.



### **5.3 EXCEPTIONS TO THE SUBSIDY STANDARDS**

[24 CFR 982.402 (b)(8)]

FH may grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom due to a documented need, such as:

- A verified medical or health reason;
- Elderly persons or persons with disabilities who may require a live-in aide; or
- An exception may be granted, (cases are decided on a case-by-case basis), if there is a medical need for an extra bedroom for medical equipment, which is documented by a health care provider. When considering the necessity of a larger subsidy for medical equipment, all living and sleeping areas in the unit must be insufficient to meet the disabled person's need.

When an exception to the subsidy standards is approved to accommodate a live-in aide or medical equipment such use will be verified by FH during the annual inspection process.

- An exception may be granted, (cases are decided on a case-by-case basis), when a member or members of the household need a separate bedroom. When considering the necessity of a larger subsidy for a separate bedroom, all other living and sleeping areas in the unit must be insufficient for use as a sleeping area.

When the need for a separate bedroom is verified by a professional as a request for reasonable accommodation, FH will acknowledge the need for a separate bedroom for the person with disabilities and a larger subsidy may be granted when the other sleeping areas in the unit are insufficient and create an over-crowded situation (refer to Section 5.6 HQS Guidelines for Unit Size Selected).

All reasonable accommodation cases are determined on a case-by-case basis. The submission of a request for an accommodation does not automatically entitle a family to a larger subsidy, or for the accommodation being requested. FH may offer an alternate accommodation.

#### **5.3.1 REQUEST FOR EXCEPTIONS TO SUBSIDY STANDARDS**

The family may request a larger subsidy/voucher size than indicated by FH's subsidy standards. Such request must be made in writing within 10 business days of FH's determination of subsidy size. The request must explain the need or justification for a larger subsidy. Documentation verifying the need or justification

will be required as appropriate.

Requests based on health-related reasons must be verified by a doctor, medical professional, or social service professional.

## **5.4 CHANGES IN SUBSIDY/ VOUCHER SIZE**

### **5.4.1 CHANGES FOR APPLICANTS**

The subsidy/voucher size is determined prior to the briefing by comparing the family composition to FH subsidy standards. If an applicant requires a change in the subsidy/voucher size the above guidelines will apply.

#### **5.4.2 CHANGES FOR PARTICIPANTS**

The members of the family residing in the unit must be approved by FH. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform FH within 30 business days. See “Changes in Family and Household Composition” in Chapter 12 for further information.

#### **5.4.3 UNDER-HOUSED FAMILIES (UNIT TOO SMALL FOR SIZE OF FAMILY)**

If a unit does not meet HQS space standards due to an increase in family size, (i.e., the unit is too small), FH will issue a new voucher. FH will also notify the family of the circumstances under which an exception will be granted, such as:

- If a family with a disability is under-housed in an accessible unit.
- If a family requires the additional subsidy because of a health problem which has been verified by FH.

#### **5.4.4 OVER-HOUSED FAMILIES (UNIT TOO LARGE SIZE OF FAMILY)**

If a participant has a decrease in the family size, the family has the option to be issued a new voucher or remain in the unit they are renting. If the family chooses to remain in the unit, the subsidy standard will be lowered at the next annual re-examination.

If the family chooses to move, the voucher will be issued with the correct subsidy standard. The amount the family pays for rent must be affordable and the tenant portion of rent cannot exceed 40% of their adjusted income at the time of lease up (24 CFR 982.508). The approved rent will be based on the payment standard for the voucher size the family is eligible for, or the actual number of bedrooms in the unit, whichever is less.

#### **5.4.5 ENHANCED VOUCHERS**

Under the requirements set forth in PIH Notice 2008-12, FH must require a family who is over-housed with an enhanced voucher to move to an appropriate size unit when one becomes available in the project. If there are more over-housed families than the number of available size units at any given time, FH will determine which over-housed family shall be required to move to the appropriate size unit using a lottery method.

#### **5.5 UNIT SIZE SELECTED**

The family may select a different size dwelling than that listed on the voucher. The

family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the voucher size, provided the dwelling unit meets the applicable HQS space requirements. See Chart 5-B on the next page.

The family may lease an otherwise acceptable dwelling unit with more bedrooms than the voucher size, provided it meets the initial affordability test, where the family does not pay more than 40% of their income towards rent and utilities.

### 5.6 HQS GUIDELINES FOR UNIT SIZE SELECTED

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

<b>Chart 5-B: HQS Guidelines for Unit Size Selection</b>	
<b>Unit Bedroom Size</b>	<b>Maximum # in Household</b>
<b>0</b>	<b>2</b>
<b>1</b>	<b>4</b>
<b>2</b>	<b>6</b>
<b>3</b>	<b>8</b>
<b>4</b>	<b>10</b>
<b>5</b>	<b>12</b>
<b>6</b>	<b>14</b>

## CHAPTER 6: INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F]

### 6.1 INTRODUCTION

The accurate calculation of Annual Income and Adjusted Income ensures that families are not paying more or less money for rent than their obligation under the regulations. This chapter defines the allowable deductions from gross Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). The chapter is divided into three main parts.

**Section One: Annual Income.** HUD regulations specify the source of income to include and exclude to arrive at a family's annual income. These requirements and FH policies for calculating annual income are found in Section One.

**Section Two: Adjusted Income.** Once annual income has been established HUD regulations require FH to subtract from annual income any of five mandatory deductions for which a family qualifies (See Section Two).

**Section Three: Calculating Rent.** This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and financial hardships affecting minimum rent.

### SECTION ONE: ANNUAL INCOME

### 6.2 ANNUAL INCOME

[24 CFR 5.609]

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

- Annual income means all amounts, monetary or not, which:
- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member;
- Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- Which are not specifically excluded in Section 6.2.2, Annual Income Exclusions in this chapter.
- Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.



## 6.2.1 ANNUAL INCOME INCLUSIONS

[24 CFR 5.609(b) and 24 CFR 5.609 (c)]

In addition to this general definition, HUD regulations state that annual income includes, but is not limited to the following:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- The net income from the operation of a business or profession;
- Interest, dividends, and other net income of any kind from real or personal property. 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;
- 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 (Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation and payments to the widow of a serviceman killed in action). The exception is lump-sum payments caused by delays in processing periodic payments for Social Security or SSI and would not be included as income);
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;
- Welfare assistance payments.
- 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. If the amount of child support or alimony received is less than the amount awarded by the court, FH will use the amount awarded by the court unless the family can prove that they are not receiving the full amount and verification of item(s) below are provided. It is the family's responsibility to supply a copy of the divorce decree. FH will accept as verification that the family is receiving an amount less than the award if:
  - a. The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/ collection

agency, or

b. Has filed an enforcement or collection action through an attorney

- All regular pay, special pay and allowances of a member of the Armed Forces (except special pay to a family member serving in the Armed Forces who is exposed to hostile fire)
- For individuals enrolled at an institution of higher education who are under the age of 24, not a veteran, unmarried, and do not have a dependent child, AND are seeking Section 8 assistance in their individual capacity, any financial assistance, in excess of amounts received for tuition and any other required fees, that an individual received under the Higher Education Act of 1965, 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. Such assistance, however, would not be included for persons over the age of 23 with dependent children. Also the student's parents' income must be considered in determining if the student is income eligible according to guidance given in the HUD Notice, Eligibility of Students for Assisted Housing under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance, published on April 10, 2006.

### **6.2.2 ANNUAL INCOME EXCLUSIONS**

[24 CFR 5.609(a)(c), PIH Notice 2013-04, PIH Notice 2019-09, Federal Register 05-20-14]

Fully excluded income as provided here and in 24 CFR 5.609 (c) no longer requires verification nor inclusion on the HUD-50058, Family Report. FH will accept the family's self-certification of fully excluded income. The application or reexamination packet, which is signed by all family members, will serve as the self-certification of the fully excluded income (Amended Effective 05-01-13).

Note: Partially excluded income (e.g., earned income for a full-time student where all is excluded but \$480) does not apply to this provision. Partially excluded income will continue to be verified and reported on the HUD-50058, Family Report (Amended Effective 05-01-13).

The following types of income are excluded:

- Income from employment of children (including foster children) under the age of 18 years;
- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c )(16)];



- Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accidental insurance and workman’s compensation), capital gains and settlement for personal property losses (except as provided in 6.2.1 (5) of this chapter);
- Amounts received by the family that specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- Income of a live-in aide;
- Subject to 6.2.1(9) above, the full amount of student financial assistance paid directly to the student or to the educational institution;
- Special armed forces pay (Hostile Fire Pay);
- Amounts received under a resident service stipend;

A resident service stipend is an amount not to exceed \$200 per month received by a resident for performing a service for FH or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving a member of FH’s governing board. No resident may receive more than one service stipend during the same period of time.

- Temporary, non-recurring or sporadic income (including gifts);
  - Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].
- 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;
- Earnings in excess of \$480 for each full-time student 18 years or older (excluding head of household or spouse);
- Adoption assistance payment in excess of \$480 per adopted child;
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c) (16)];
- Refunds and rebates for property taxes paid on the dwelling unit;
- 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);

- Federally mandated income exclusions listed in Federal Register
- Earned income disallowance.
- Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program.
- Contributions to ABLE accounts (529A Plan)
  - The Achieving a Better Life Experience (ABLE) Act was signed into law on December 19, 2014. The ABLE Act allows States to establish and maintain a program under which contributions may be made to a tax-advantaged ABLE savings account to provide for the qualified disability expenses of the designated beneficiary of the account. The designated beneficiary must be person with disabilities, whose disability began prior to his/her 26<sup>th</sup> birthday and who meets the statutory eligibility requirements.
  - ABLE accounts are federally mandated to be excluded from the calculation of income and assets, as required under the Achieving a Better Life Experience Act of 2014 (ABLE Act). Per the mandate of the ABLE act, for the purpose of determining eligibility and continued occupancy, HUD will disregard amounts in the designated beneficiary's/individual's ABLE account.
- Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff.

For the last exclusion above, the following definitions apply:

“Training Program” - 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 designated to lead to a higher level of proficiency and it enhances the individual's ability to obtain employment.

Training may include, but is not limited to:

- Classroom training in a specific occupational skill;
- On-the-job training with wages subsidized by the program; or
- Basic education.

“Incremental” - The increase between the total amount of welfare and

earnings of a family member prior to enrollment in the training program and welfare and earnings of the family member after enrollment in the training program. All other amounts, increases or decreases, are treated in the usual manner in determining annual income.

“Supportive Services” - Employment training programs offering supportive services must include at least one of the following, or similar types of social services:

- Child care
- Transportation
- Personal welfare counseling (family-parental development counseling, parenting skills training for adult and teenage parents, substance/alcohol abuse treatment and counseling, self-development counseling);
- Health care services (including outreach and referrals);
- Youth leadership skills; youth mentoring.

The duration of time when the incremental earnings are excluded is for the length of the training program, or until the training ends, whichever comes first. (A training program should have definite goals and a definite ending date. When documenting this type of excludable income, staff will include the anticipated ending date of the training program).

Scenario of this type of excludable income: A family member is receiving \$300 per month in Temporary Assistance to Needy Families (TANF) benefits. She enrolls in a Qualifying State employment training program and receives \$450 per month in training income. The TANF benefits stop.

Action: To determine the incremental amount of earnings and benefits, subtract \$300 (benefits prior to enrollment in the training program) from \$450 (earnings while enrolled in the training program). The incremental amount is \$150. In determining income, \$300 is counted and \$150 is excluded. After completion of the training program, the exclusion ends.

### **Federally Mandated Income Exclusions**

[Federal Register/, 05-20-14]

- (i)The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C.2017(b));
- (ii) Payments to Volunteers under the Domestic Volunteer Services Act

of 1973 (42 U.S.C. 5044(g), 5058);

- (iii) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- (iv) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- (v) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- (vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);
- (vii) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-8);
- (viii) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, 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 (U.S.C. 1437f), 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 not be considered income to that individual if that individual is over the age of 23 with dependent children (Pub.L. 109-115, Section 327) (as amended);
- (ix) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056f);
- (x) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange liability litigation, M.D.L. No. 381 (E.D.N.Y.) (Pub. L. 101-201 and 101-39);
- (xi) Payments received under the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420, 25 U.S.C. 1721) pursuant to 25 U.S.C. 1728(c);
- (xii) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act

of 1990 (42 U.S.C. 9858q);

- (xiii) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(i));
- (xiv) 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);
- (xv) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- (xvi) Any allowance paid under the provisions of 38 U.S.C. 1833c to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821).
- (xvii) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602);
- (xviii) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931);
- (xix) Any amount received under the Richard B. Russell School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- (xx) Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- (xxi) Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437a(b)(4));
- (xxii) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub.L. 111–269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American

Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) and administered by the Office of Native American Programs;

- (xxiii) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F. Supp.2d 10 (Oct 5, 2011 D.D.C.) for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291).
- (xxiv) Any amounts in an “individual development account” s as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107–110, 42 U.S.C. 604(h)(4));
- (xxv) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
- (xxvi) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub, L. 93-288, as amended) comparable disaster assistance provided by States, local governments, and disaster assistance organizations shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested programs (42 U.S.C. 5155(d)).

### **6.2.3 ANTICIPATING ANNUAL INCOME**

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

- An imminent change in circumstances is expected; or
- 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)]; or
- FH believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)].

When FH cannot easily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), FH 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 FH to show why the

historic pattern does not represent the family's anticipated income.

### **6.3 MINIMUM INCOME**

There is no minimum income requirement.

If the family reports zero annual income, FH will require the family to complete the Monthly Living Expense worksheet and sign a zero income affidavit. FH may require the family to complete an interim every 120-calendar days as long as they report zero income. If the family's expenses exceed its known income, FH will question the family about contributions and gifts.

## **6.4 LUMP-SUM RECEIPTS**

[24 CFR 5.609]

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, lottery winnings, and settlement for personal or property losses, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) (24 CFR 5.609(c)(3)).

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

### **6.4.1 PROSPECTIVE CALCULATION METHODOLOGY**

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

- The entire lump-sum payment will be added to the annual income at the time of the interim.
- FH will determine the percent of the year remaining until the next annual recertification as of the date of the interim.
- At the next annual recertification, FH will apply the percentage balance to the lump sum and add it to the rest of the annual income.
- The lump sum will be added in the same way for any interims which occur prior to the next annual recertification.

### **6.4.2 RETROACTIVE CALCULATION METHODOLOGY**

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

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

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



At FH's option, FH may enter into a Repayment Agreement with the family. The family will be required to pay 10% of the retroactive amount due at the time of calculation and remaining balance to be paid in equal payments over a period of time not to exceed 24 months. The maximum amount for which FH will enter into a payment agreement with a family is \$10,000. (Reference Chapter 18) The amount owed by the family is a collectible debt even if the family becomes unassisted.

### 6.4.3 ATTORNEY FEES

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

### 6.5 INCOME FROM ASSETS

When the total cash value of family assets is \$5,000 or less, the actual income derived from assets is included in annual income.

When the total cash value of family assets exceeds \$5,000, the amount added to annual income is the greater of:

- The actual income derived from the assets; or
- The imputed income from assets is calculated by multiplying the cash value of all family assets by an average passbook savings rate as determined by the PHA. *Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for the PHA to establish a passbook rate within 0.75 percent of a national average (24 CFR 5.609(b)(3), Notice PIH 2012-29).*

"Imputed" means "attributed" or "assigned." Imputing income from assets is assigning an amount of income for the purpose of the annual income calculation.

Compare Actual Income From Assets To Imputed Income From Assets

Applicant has \$7900 in assets (assume the passbook rate of 0.06 %.)

Applicant actual income from assets is paid at 1.5% simple interest annually =\$119.  
Assets: \$7,900

HUD-determined passbook rate x .06

The imputed income is not real income. The family is never required to convert the

asset to cash. Income from assets must be counted even if the family does not directly receive the income.

### **6.5.1 CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS**

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

- While an individual is employed, count as assets only the amount the family has withdrawn without retiring or terminating employment.
- After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

### **6.5.2 ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

FH must count assets disposed of for less than fair market value during the two years prior to the effective date of the certification or reexamination. FH will count the difference between the market value and the actual payment received in calculating total assets.

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

FH's minimum threshold for counting assets disposed of for less than Fair Market value is \$1,000.00. If the total value of assets disposed of within a one-year period is less than \$1,000.00, they will not be considered an asset.

## **6.6 REDUCTION IN BENEFITS**

For reduction in benefits such as Social Security and SSI due to overpayments, FH will use the net amount of benefits. Special rules follow below when a family's welfare (TANF) benefit is reduced.

### **6.6.1 WELFARE BENEFITS**

FH must consider the reason a family's welfare benefit has been reduced before FH can determine whether it is appropriate to reduce the rental contribution. FH will apply the following criteria in making this determination.

FH will reduce the rental contribution if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits;
- Family Support Division penalty;
- Family sanction because a school-age child is not attending school; or
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has

not obtained employment,; e.g., the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

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

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

### **6.6.2 VERIFICATION BEFORE DENYING A REQUEST TO REDUCE RENT**

FH will obtain written verification from the welfare agency stating the reason for the family's reduction before denying the family's request for rent reduction.

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

- \_ Amount and term of specified welfare benefit reduction for the family
- \_ Reason for the reduction and subsequent changes in term or amount of reduction.

## **6.7 ABSENCE POLICY**

[24 CFR 982.54(d)(10), 982.551 (i)]

FH must compute all applicable income of every family member whether or not (s)he is on the lease, including anyone who is temporarily absent. Temporarily absent is defined as away from the unit for 180 calendar days or less.

### **6.7.1 ABSENCE OF ANY MEMBER**

Any member of the household will be considered permanently absent if s/he is away from the unit for more than 180 calendar days except as otherwise provided in this chapter. If a member of the household is subject to a court order that restricts him/her from the home for more than 90 calendar days, the person will be considered permanently absent.

### **6.7.2 ABSENCE DUE TO MEDICAL REASONS**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, FH will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the person permanently

confined is the HOH and is the sole household member or the only remaining member in the unit is a live in aide, the assistance will be terminated as of the first of the following month of admission to the nursing home. If the verification indicates that any other family member will return in less than 180 consecutive days due to medical reasons, the family member will not be considered permanently absent.

### **6.7.3 ABSENCE DUE TO FULL-TIME STUDENT STATUS**

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

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

### **6.7.4 ABSENCE DUE TO INCARCERATION**

If the absence of the head of household is due to incarceration for more than 30 consecutive days, s/he will be considered permanently absent. Any other household member will be considered permanently absent if s/he is incarcerated for more than 180 consecutive calendar days in a twelve-month period. FH will determine if the reason for incarceration is for drug-related or violent criminal activity. For further information regarding such activity, see Chapter 15.

### **6.7.5 ABSENCE OF CHILDREN DUE TO PLACEMENT IN FOSTER CARE**

If the family includes a child or children temporarily absent up to 18 months or less from the home due to placement in foster care, FH will determine from the appropriate agency when the child/children will be returned to the home. After 18 months, the child(ren) is considered out of the home for purposes of reducing the voucher size. A special reexamination may be conducted in order to increase the voucher size once it has been determined the child(ren) will be returning to the household.

### **6.7.6 ABSENCE OF ENTIRE FAMILY**

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

Families are required both to notify FH before they move out of a unit and to give

FH information about any family absence from the unit.

Families must notify FH if they are going to be absent from the unit for more than 30 consecutive days.

If it is determined that the family is absent from the unit, FH will not continue assistance payments. HUD regulations require FH to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days. However, if the entire family (including a single member household) is absent from the assisted unit for more than 60 consecutive days without contact, the unit will be considered vacated and the termination of assistance process will be initiated.

"Absence" means that no family member is residing in the unit. In order to determine if the family is absent from the unit, FH may verify the family's absence through visits, calls to the tenant, conversations with landlords, managers or neighbors or post office or utility company inquiries.

A head of household with a disability or spouse of disabled head of household may request an extension of time as an accommodation if the extension does not go beyond the HUD-allowed 180 consecutive calendar day's limit. If the absence which resulted in termination of assistance was due to the head of household's disability, and the family can verify they were unable to notify FH in accordance with the family's responsibilities, and if funding is available, FH may reinstate the family as an accommodation if requested by the family.

#### **6.7.7 CARETAKER FOR CHILDREN**

If neither parent remains in the household, nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, FH will treat that adult as a visitor for the first 90 days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the voucher will be transferred to the caretaker. The caretaker must meet program eligibility criteria.

If the appropriate agency cannot confirm the guardianship status of the caretaker, FH will review the status at 90-day intervals.

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

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

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

FH will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 120 calendar days and it is reasonable to expect that custody will be granted.

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

#### **6.7.8 ABSENCE DUE TO DEATH OF HOUSEHOLD MEMBER**

When Social Security Administration reports to FH the death of a sole member, FH will terminate assistance no later than the first of the month following the date of death. The owner will be notified in writing of the termination.

For all other instances, FH will initiate the interim process as it would with any family reported change of household composition.

#### **6.8 DETERMINING A VISITOR FROM AN UNAUTHORIZED HOUSEHOLD MEMBER**

Any adult not included on the HUD-50058 who has been in the unit more than 60 consecutive days without FH approval, or a total of 90 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member. Absence of evidence of any other address will be considered verification that the visitor is a member of the household. Statements from neighbors and/or the landlord will be considered in making the determination. Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence. Explicitly temporary is defined as living in the unit more than 60 consecutive days without FH approval, or a total of 90 days in a 12-month period. The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and FH will terminate assistance since prior approval was not requested for the addition. In a joint custody arrangement, if the minor is in the household less than 180 days per year, the minor will be considered an eligible visitor and not a family member.

*Note: If the owner's lease stipulates guests are not allowed beyond a specified period which is shorter than FH policy (e.g. visitors may not reside in the unit over two weeks), the lease will prevail over FH policy.*



## 6.9 EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

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

### Definition of Earned Income Disallowance

The annual income for qualified disabled families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning on the date on which the increase in earned income begins and continues for a cumulative 12-month period. After the disabled family receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

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

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any State program for TANF if the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

The HUD definition of "previously unemployed" includes a person with disabilities who has earned in the 12 months before employment, no more than would be received for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of "baseline income" is the annual income immediately prior to implementation of the disallowance of a person with disabilities (who is a member of a qualified family).

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English

proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment. The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member's income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

### **Initial Twelve-Month Exclusion**

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

### **Second Twelve-Month Exclusion and Phase-in**

Upon expiration of the second cumulative 12-month period after the expiration of the initial 12-month period referred to above and the subsequent 12-month period, FH must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member's baseline income.

## **6.9.1 MAXIMUM FOUR YEAR DISALLOWANCE FOR ELIGIBLE PARTICIPANTS PRIOR TO 5/9/2016**

The earned income disallowance is limited to a lifetime 48-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of phase-in exclusion during the 48-month period starting from the date of the initial exclusion. If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 months of each disallowance (the initial 12-month full exclusion and the second 12-month phase-in exclusion). No earned income disallowance will be applied after

the 48-month period following the initial date the exclusion was applied.

## **6.9.2 MAXIMUM TWO YEAR DISALLOWANCE FOR ELIGIBLE PARTICIPANTS BEGINNING 5/9/2016**

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.

- Once a family member is determined to be eligible for the EID, the 24–calendar month period starts;
- If the family member discontinues the employment that initially qualified the family for the EID, the 24–calendar month period continues;
- During the 24–calendar month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);
- During the first 12–calendar month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the PHA must exclude from annual income of the family at least 50 percent of any increase in income of such family member as a result of employment over the family member’s income before the qualifying event (i.e., the family member’s baseline income);
- The EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- At the end of the 24 months, the EID ends regardless of how many months were “used.”

### Applicability to Child Care Expense Deductions

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

### Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family’s file to show the reason for the reduced increase in rent.

Such documentation will include:

- Date the increase in earned income was reported by the family
- Name of the family member whose earned income increased
- Reason (new employment, participation in job training program, within 6 months after receiving TANF) for the increase in earned income
- Amount of the increase in earned income (amount to be excluded)
- Date the increase in income is first excluded from annual income
- Date(s) earned income ended and resumed during the initial cumulative 12-month period of exclusion (if any)
- Date the family member has received a total of 12 months of the initial exclusion  
Date the 12-month phase-in period began
- Date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any)
- Date the family member has received a total of 12 months of the phase-in exclusion
- Ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

FH will maintain a tracking system to ensure correct application of the earned income disallowance.

#### Inapplicability to Admission

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

## **SECTION TWO: ADJUSTED INCOME**

### **6.10 ADJUSTED INCOME**

[24 CFR 5.611]

HUD regulations require FH to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income.

1. **Dependent Allowance:** \$480 for each family member who is under 18 years of age, is disabled, or is a full-time student (see Glossary).
2. **Elderly/Disabled Allowance:** \$400 per family whose head of household or spouse is at least 62 years of age or disabled (see Glossary).
3. **Medical Expenses:** Deducted for all family members of an eligible elderly/disabled family for out of pocket medical expenses not covered by an outside source. (After expenses exceed 3% of annual income, which is referred to as the medical threshold.) When it is unclear the most current IRS Publication 502, Medical and Dental Expenses, will be used as a reference to determine the costs that qualify as medical expenses.
4. **Child Care Expenses:** Reasonable childcare expenses not covered by an outside source may be deducted for the care of children under 13 when childcare is necessary to allow an adult member to work, attend school, or actively seek employment.
  - Childcare to work or actively seek employment: The maximum childcare expense allowed must be less than the amount earned by the person enabled to work. The person “enabled to work” will be the adult member of the household who earns the least amount of income from working. When an adult is “actively seeking employment”, it will be established by acceptable documentation or the childcare expense cannot be given. Acceptable documentation may include a record of companies contacted, their business addresses, phone numbers and the dates on which employment was sought. The number of hours of allowable childcare cannot exceed the number of hours worked, plus transportation time, of the person enabled to work.
  - Childcare for school: The number of hours claimed for childcare may not exceed the number of hours the family member is attending school plus transportation time. Amount of expense: FH will survey the local care providers in the community and collect data as a guideline. If the hourly rate materially exceeds the guideline, FH may calculate the allowance using the guideline. Reasonable hours for childcare must be proportionate with the number of hours the adult is away due to work, school or actively seeking employment, and will include reasonable travel time to and from those activities. Changes in expenses due to the child’s school schedule or other factors will be built into the annual estimation, so that an interim will not be required later on when the childcare hours change.
5. **Disability Assistance Expenses:** Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the disabled individual or an adult household member to work.



## SECTION THREE: CALCULATING RENT

### 6.11 TOTAL TENANT PAYMENT (TTP)

The TTP is calculated for each household based on family income. It is used to determine the tenant contribution toward rent. Accurate calculation of annual income and adjusted income ensures that families do not pay more or less for rent than required by the regulations.

TTP is the higher of:

- 30% of monthly adjusted income
- 10% of total monthly gross income,
- Welfare rent, or
- Minimum rent (\$50)

#### 6.11.1 FAMILY SHARE

The family share will be the same as the TTP if the unit rented is at or below the Payment Standard (PS). If the unit has a gross rent above the PS, the family share will be the TTP plus any amount that exceeds the PS.

(Note: The family share may not be more than 40% of the adjusted income when the family first moves into an assisted unit).

#### 6.11.2 HOUSING ASSISTANCE PAYMENT (HAP)

The Housing Assistance Payment (HAP) is the lower of:

1. The Payment Standard minus the TTP or
2. The Gross Rent minus the TTP

### 6.12 MINIMUM RENT

[24 CFR 5.630]

"Minimum rent" is \$50 in the Housing Choice Voucher Program. 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.

#### **Notification to Families for Hardship Exemption Requests**

FH will notify those participant families subject to a minimum rent of their right to request a minimum rent hardship exemption under the law as part of the annual recertification process. FH notification will advise the family that hardship exemption determinations are subject to FH grievance procedures. FH will promptly review all resident requests for exemption from the minimum rent due to



financial hardship. All requests for minimum rent exemption are required to be in writing. Requests must state the circumstance(s) that qualify the family for the exemption. In the event the request is approved, FH will grant the minimum rent hardship exemption either temporarily or long-term depending on the qualifying reason.

### **6.12.1 HARDSHIP REQUESTS FOR AN EXEMPTION FROM THE MINIMUM RENT**

FH recognizes that in some circumstances even the minimum rent may create a financial hardship for families. FH will review all relevant circumstances brought to FH's attention regarding financial hardship as it applies to the minimum rent. The following section states FH's procedures and policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed. (24 CFR 5.630).

### **6.12.2 CRITERIA FOR HARDSHIP EXEMPTION**

When FH's Minimum Rent is more than zero and the family is paying the minimum rent, FH must suspend the Minimum Rent in certain specific instances: [24 CFR 5.630]

- When the family has lost eligibility for or is awaiting an eligibility determination for a government assistance program;
- When the family would be evicted because it is unable to pay the minimum rent;
- When the income of the family has decreased because of changed circumstances, including loss of employment, death in the family, or other circumstances as determined by FH or HUD.

In addition to the HUD hardships, FH has added these hardship qualifications:

- If there is a substantial decrease of income, which was beyond the family's control.
- If there is a substantial increase in expenses, which was beyond the family's control.

If the family requests a hardship exemption, FH will immediately suspend the minimum rent for the family until FH can determine whether the hardship exists and whether the hardship is of a temporary or long-term nature. A supervisor must approve hardship exemptions.



### **6.12.3 NO HARDSHIP**

If FH determines no qualifying hardship exists, the minimum rent is imposed retroactively to the time of suspension.

### **6.12.4 TEMPORARY HARDSHIP**

If FH reasonably determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the 90-day period, the minimum rent will be imposed retroactively to the time of suspension. FH will offer a repayment agreement in accordance with this policy for any rent not paid during the period of suspension.

#### Repayment Agreements for Temporary Hardship

FH will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. If the family owes FH money for rent arrears incurred during the minimum rent period, FH will require that the family pay a minimum 10% initial lump sum with the remaining balance to be paid in equal payments over a period of time not to exceed 24 months under \$2400 or 24 months for any amount in excess of \$2400. Minimum rent arrears that are less than \$50 will be required to be paid in full the first month following the end of the minimum rent period. FH's policies regarding repayment agreements are further discussed in Chapter 18 entitled "Owner or Family Debts to FH."

### **6.12.5 LONG-TERM HARDSHIP**

If FH determines there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists.

### **6.13 UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

Where the Utility Allowance exceeds the family's Total Tenant Payment, FH will provide a Utility Reimbursement Payment for the family each month. If the total quarterly reimbursement payment due to the family is equal to or less than \$45, payments may be paid quarterly. If a quarterly payment schedule is implemented, the family may request a financial hardship exemption to receive reimbursements. Either FH may either reimburse the family on a monthly basis or it may make prospective payments to the family on a quarterly basis when hardship exemptions are granted. The check will be made out directly to the tenant unless FH determines that utility companies should receive the check, in which case the

check will be sent to appropriate utility companies without the tenant's written agreement.

### **6.13.1 UTILITY ALLOWANCE SCHEDULE**

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

The utility allowance for a family is the lower of:

- 1) The utility allowance amount for the voucher size; or
- 2) The utility allowance amount for the bedroom size of the unit rented by the family.

An exemption may apply for families with a person with disabilities. See Section 6.13.5 for details about this type of request for an accommodation.

Where families provide their own range and refrigerator, FH will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for tenant-provided ranges and refrigerators will be based on the lower of the cost of leasing the equipment or the cost of purchasing it on an installment plan.

FH must maintain a utility allowance schedule for all tenant-paid utilities (except telephone), for cost of tenant-supplies refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse). FH must give HUD a copy of the utility allowance schedule. At HUD's request, FH also must provide any information or procedures used in preparation of the schedule.

### **6.13.2 HOW UTILITY ALLOWANCES ARE DETERMINED**

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative household that occupy housing of similar size and type in the same locality. In developing the schedule, FH must use normal patterns of consumption for the community as whole and current utility rates.

FH's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards. However, FH may not

provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

In the utility allowance schedule, FH must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; electric; refrigerator (cost of tenant-supplied refrigerator); range (cost of tenant-supplied range); and other specified housing services. FH must provide a utility allowance for tenant-paid air-conditioning costs if the majority of housing units in the market provide centrally air-conditioned units or there is appropriate wiring for tenant-installed air conditioners. The cost of each utility and housing service category must be stated separately. For each of these categories, the utility allowance schedule must take into consideration unit size (by number of bedrooms), and unit types (e.g., apartment, row-house, town house, single-family detached, and manufactured housing) that are typical in the community. The utility allowance schedule must be prepared and submitted in accordance with HUD requirements on the form prescribed by HUD.

FH must maintain information supporting its annual review of utility allowances and any revisions made in its utility allowance schedule. At HUD's direction, FH must revise the utility allowance schedule to correct any errors, or as necessary to update the schedule.

### **6.13.3 REVISIONS OF THE UTILITY ALLOWANCE SCHEDULE**

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

### **6.13.4 USE OF UTILITY ALLOWANCE SCHEDULE**

FH must use the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under FH subsidy standards). At reexamination, the current utility allowance schedule will apply.

### **6.13.5 HIGHER UTILITY ALLOWANCES AS REASONABLE ACCOMMODATION FOR A PERSON WITH DISABILITIES**

On request from a family that includes a person with disabilities, FH 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 in accordance with 24 CFR Part 8 to make the program accessible to and usable by the family member with a disability.

### **6.13.6 ENERGY EFFICIENT UTILITY ALLOWANCES FOR TAX CREDIT PROPERTIES**

“For the purpose of establishing energy efficient utility allowances for tax credit properties, FH requested and was granted a waiver of the requirements of 24 Code of Federal Regulations (CFR) 982.517(b) for Parc Grove Commons in May 2011. FH will update its energy efficient utility allowances on an annual basis for the next three years, and maintain all associated data with the waiver for an additional 3 years. Any future new construction projects must have their own approved waiver.”

### **6.14 PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES**

[24 CFR 5.520]

#### **6.14.1 WHEN PRO-RATION OF ASSISTANCE APPLIES**

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

#### **6.14.2 PRORATED ASSISTANCE CALCULATION**

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total Tenant Payment is the gross rent minus the prorated assistance.

### **6.15 FH POLICY ON REIMBURSEMENT TO FAMILY**

HUD regulation states housing authorities are required to reimburse families for overpayment of family share in accordance with FH policy.

## CHAPTER 7: VERIFICATION PROCEDURES

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

### 7.1 INTRODUCTION

HUD regulations require that all factors affecting eligibility and the family's payment must be verified, preferably through direct third-party contact with an independent source. Applicants and program participants must provide true and complete information to FH whenever information is requested; information cannot be altered or incomplete. FH will obtain proper authorization from the family before requesting information from independent sources. All verifications will be kept in the client's file in a way that allows HUD to conduct a speedy and effective audit. The methods of verification are outlined throughout this Chapter and generally apply to all types of income which must be verified.

In addition, before sending for verification from independent sources, FH will utilize upfront income verification (UIV) through the Enterprise Income Verification (EIV) system to verify income as required by HUD and conduct face-to-face appointments to discuss any discrepancies with the family at the time of the certification interview.

Families will be made aware that FH does independent verification. Families are encouraged to fully divulge all factors related to their entitlement and the amount of their subsidy assistance.

#### **Family Disclosure of Information to FH and Verification**

HUD regulations require that when a family is assisted under any Section 8 program and receives a letter or notice from HUD requesting information concerning the amount or verification of family income, that family must promptly furnish this information to FH. Families will be given 10 business days to furnish requested documents. FH must verify the accuracy of the income information received from the family, and change the amount of the total tenant payment, tenant rent or Section 8 housing assistance payment, or terminate assistance, as appropriate, based on such information.



## 7.2 ITEMS TO BE VERIFIED

[24 CFR 982.516]

The following is a list of items which must be verified at the time of initial and annual eligibility:

- Reported family annual income and its source – both cash and non-cash.
- Full-time student status including high school students who are 18 or over at the time of final initial or annual eligibility
- Current assets including assets disposed of for less than fair market value in the preceding two years
- Child care expense if it allows an adult family member to be employed or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family which allow an adult family member to be employed
- Legal identity of all family members
- Disability status for determination of preference, allowances or deductions
- U.S. citizenship/eligible immigrant status
- Social Security Numbers for all family members
- "Preference" status, based upon local preferences
- Familial/marital status when needed for head or spouse definition
- Verification of reduction in benefits for noncompliance in certain programs, such as Welfare to Work sanctions of CalWORKs benefits
- FH will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance for determination of imputed income and before denying the family's request for rent reduction.
- Verification of foster adults/children from the placement agency
- Verification of being the victim of domestic violence, dating violence or stalking.
- Verification of participation in a federal, state or local training program that is generating income.



### 7.3 VERIFICATION OF INCOME, METHODS OF VERIFICATION AND TIME ALLOWED

[24 CFR 982.516; 982.201(e) and PIH 2018-18]

FH will verify information regarding income, assets, expenses, and any other factor which HUD requires us to verify in determining the family's eligibility by following the basic hierarchy shown in 7.3.1. The hierarchy begins with the Upfront Income Verification (such as the Work Number) and the EIV system, a web-based application, which provides FH with employment, wage, unemployment compensation and social security benefit information.

Level four states that all participant-provided documents must be an original or authentic document generated by a third party source and dated within a 60-day period preceding the reexamination receipt date or FH request date.

Whenever FH cannot obtain third party verification, FH is required to document in the family file the reason(s) why third party verification was not available.

FH must receive information verifying eligibility factors that are current (no more than 60 days old) at the time of voucher issuance.

When processing an annual or interim recertification, verifications are current if they are dated within 60 days of FH request date or reexamination date.

#### Streamlined Income Determination for any Family Member with Fixed Income (PIH 2016-05)

FH may conduct a streamlined reexamination of income for family members with fixed income (applies to participants only). FH will determine whether a source of income is fixed by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the source is fixed. FH may also make such a determination by requiring a family to identify as to which source(s) of income are fixed. FH will document in the file how it made the determination that a source of income is fixed.

The determination will be made by applying a verified cost of living (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained.

For purposes of this policy provision, the term “fixed income” includes income from:

- Social Security payments, Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, State, local and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

For any family member whose income is determined pursuant to a streamlined income determination, third party verification of all income amounts for all family members must be performed at least every three years.

### **7.3.1 HIERARCHY OF VERIFICATION**

FH will begin with the highest level of verification techniques.

PHAs will access the EIV system and Income Validation Tool (IVT) for each household. Income Reports will be retained in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations and interim reexaminations (only ICN Page when there is no household or income discrepancy for interim) of family income and/or composition for level of assistance. The data shown on income reports is updated quarterly.

If the PHA will attempt the next lower level verification technique, as noted in the below chart.

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

<b>Level</b>	<b>Verification Technique</b>	<b>Ranking</b>
<b>6</b>	<b>Upfront Income Verification (UIV)</b> using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants) and the Income Validation Tool (IVT)	<b>Highest</b> (Mandatory)
<b>5</b>	<b>Upfront Income Verification (UIV)</b> using non-HUD system	<b>Highest</b> (Optional)
<b>4</b>	<b>Written Third Party Verification</b>	<b>High</b> (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute)
<b>3</b>	<b>Written Third Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
<b>2</b>	<b>Oral Third Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
<b>1</b>	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain)

Clarification of terms in the Verification Hierarchy:

1. Up-front Income Verification (UIV) using HUD's Enterprise Income Verification EIV system and IVT
2. Up-front Income Verification (UIV) using non-HUD system
3. Written Third Party Verification (An original or authentic document generated by a third party source)
4. Written Third Party Verification Form (a standardized form to collect information from a third party source)
5. Oral Third-Party Verification (in person or via telephone directly from the third party)
6. Review of Documents
7. Family Declaration or Certification (signed questionnaire packet)

FH will allow 10 calendar days for the return of written third-party verification form before going to the next method, which is oral verification. FH will document the file as to why Up Front Income Verifications or third party written verifications were not used.

For verification of those subject to the Violence against Women Act (VAWA), the certification must be received 14 working days from applicant's/participant's receipt of FH request.

For applicants, verifications may not be more than 60 days old at the time of voucher issuance.

FH will accept documents dated within the last 12 months, if they are the most recent scheduled report from a given source (e.g. last quarter's quarterly money market account statement).

FH will not delay the processing of an application beyond 10 calendar days because a third party information provider does not return the verification in a timely manner.

### **7.3.2 LEVELS OF INCOME VERIFICATION**

**Upfront Income Verification (UIV) and IVT (Level 6/5):** Upfront Income Verification (UIV) is information provided directly from a central information collection point, which includes EIV System wage, pension, social security and supplementary (SSI) income, the Work Number for wage income information, the local public assistance provider for CalWORKs or TANF income, etc. If this income information is received from this source and is reliable, no other

verification is required. Within the EIV system, the Income Validation Tool (IVT) provides a comparison between tenant-reported income and previously reported income on the form HUD-50058 and includes any discrepant income information from data sharing with HUD partners. This data is updated monthly.

If EIV validates the tenant-reported income, FH uses the CURRENT tenant-provided documents to calculate anticipated annual income. (If additional information is needed, FH will request written third-party verification).

The Work Number is an automated verification system, which may also be used to verify tenant-reported income.

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

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

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

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

Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.). FH will accept faxed documents.

**Oral Third Party Verification (Level 2):** Independent verification of information

by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information.

This verification method is commonly used in the event that the independent source does not respond to the PHA's faxed, mailed, or e-mailed request for information in a reasonable time frame, i.e., ten (10) calendar days.

When third-party oral verification is used, staff will be required to complete FH-created form designed for this purpose, noting with whom they spoke, the date of the conversation, and the facts provided. When third-party oral verification is provided by telephone FH must originate the call.

### **Non-Third Party Verification Technique**

**Tenant Declaration (Level 1):** The tenant submits an affidavit or notarized statement of reported income and/or expenses to FH. This is the verification method of last resort and should be used when FH has not been successful in obtaining information via all other verification techniques. If UIV or third party is not possible to obtain directly from the source, FH staff must document in the tenant file why UIV and third party verification were impossible to obtain and attempt to obtain an oral third party, and document this attempt, before another method is used, such as reviewing family-provided documents. Self-certification means statement under penalty of perjury. The signed (physical or electronic) questionnaire packet is considered self-certification.

### **7.3.3 THIRD PARTY VERIFICATION REQUIREMENTS**

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

### **7.3.4 EIV OR IVT DISCREPANCIES**

In accordance with 24 CFR §5.236(b)(2)(3), PHAs are required to compare the information on the EIV report with the family-reported information. If the EIV or IVT report reveals an income source that was not reported by the tenant or there is a substantial difference in the reported income information (an amount equal to



or greater than \$2,400, annually) FH is required to take the following actions:

- Discuss the income discrepancy with the tenant; and
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
- In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, FH is required to request from the third party source, any information necessary to resolve the income discrepancy; and
- If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively\*; and
- Take any other appropriate action as directed by HUD or FH's administrative policies.

These same steps will be followed when unreported and/or underreported is discovered from sources other than EIV (i.e. fraud phone call from outside source or late reporting by family).

No adverse action can be taken against a family until FH 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 FH.

\*FH is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

**Note:** A substantial difference is defined as an amount equal to or greater than \$2,400, annually.

### **7.3.5 WHEN FH IS REQUIRED TO REQUEST WRITTEN THIRD- PARTY VERIFICATION**

FH must request written third party verification under the following circumstances:

- When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR §5.236(b));
- When FH requires additional information that is not available in EIV and/or the tenant is unable to provide FH with current acceptable tenant-provided

documentation. Examples of additional information, includes but is not limited to:

- Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
- For new employment: pay rate, number of hours worked per week, pay frequency, etc.
- Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.)

If third-party verification is received after completing the certification with the documents accepted as provisional verification and there is a discrepancy, FH will:

- Make contact with the parties necessary to resolve any discrepancy,
- Analyze the reason for the discrepancy,
- Explain how the discrepancy was resolved. Where appropriate, the rent will be recalculated and a rent change letter will be sent to reflect the corrected tenant rent portion.

## **7.4 RELEASE OF INFORMATION**

[24 CFR 5.230]

It is required that all adult family members, live in aides and adult foster children to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information / Privacy Act Notice and the CSF-15 for Welfare-to-Work families.

Adult family members are those who are expected to be 18 years of age or older at the time of annual recertification, moves, or final eligibility determination.

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

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance, for violation of the family obligation to supply any information and to sign consent forms requested by FH or HUD.

### **7.4.1 TYPE OF FILE DOCUMENTATION REQUIRED BY HUD**

[24CFR §5.233(A)(2)(I)]

- A. For each **New Admission** (form HUD-50058 action type 1), FH is required to do the following:
- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
  - ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
  - iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
- B. For each **Historical Adjustment** (form HUD-50058 action type 14), FH is required to do the following:
- i. Review the EIV Income Report/IVT Report to confirm/validate family-reported income within 120 days for the PIC submission date; and
  - ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
  - iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
- C. For each **Interim Reexamination** (form HUD-50058 action type 3) of family income and composition, the PHA is required to have the following documentation in the tenant file:
- i. **ICN Page** when there is **no** household income discrepancy noted on the household's Income Discrepancy Report tab **or** Income Validation Tool (IVT) reports.
- D. For each **Annual Reexamination** (form HUD-50058 action type 2) of family income and composition, FH is required to have the following documentation in the tenant file:
- i. **No Dispute of EIV Information:** EIV Income Report, current acceptable tenant-provided documentation, and if necessary ((as determined by FH), traditional third party verification form(s).
  - ii. **Disputed EIV Information:** EIV Income Report, current acceptable tenant-provided documentation, and/or traditional third party verification form (s) for disputed information.
  - iii. **Tenant-Reported Income Not Verifiable through EIV System:** Current tenant-provided documents, and if necessary (as determined by FH), traditional third party verification form(s).

## 7.5 INCOME TYPES TO BE VERIFIED

### **7.5.1 EMPLOYMENT INCOME**

Verification forms may request the employer to specify the:

- Dates of employment
- Amount and frequency of earnings (If paid twice a month for example, on the 15<sup>th</sup> and 30<sup>th</sup>, frequency of pay is 24 times per year. If paid every two weeks, frequency of pay is 26 times per year).
- Expected change in employment status
- Effective date of any anticipated wage increase during next twelve months.
- Year-to-date earnings
- Estimated income from overtime, tips, bonus pay expected during next 12 months
- Anticipated unpaid time off

Acceptable methods of verification include, in this order:

- EIV income and IVT reports and current acceptable verification check stubs
- Upfront Verification – Work Number
- Third Party Verification – current tenant supplied third party generated documents
- A minimum of two current and consecutive check stubs which indicate the employee's gross pay, frequency of pay or year to date earnings.
- W-2 forms or 1099 forms, plus income tax return forms.
- Third Party Verification Form - Employment verification form completed by the employer.
- Telephone contact with employer documented on FH's oral verification form.
- Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

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

### **7.5.2 SOCIAL SECURITY AND SUPPLEMENTAL SECURITY INCOME (SSI) INCOME**

1. Report supplied through Enterprise Income Verification (EIV) showing the amount of benefits and the current pay status.

2. If EIV is unavailable or does not reflect what the client reports, ask client to provide a current benefit verification letter from the Social Security Administration dated within the last 60 days.

Note: Social Security benefit information in EIV is updated every three months. If the family agrees with the EIV-reported benefit information, FH does not need to obtain or request a benefit verification letter from the family.

### **7.5.3 UNEMPLOYMENT COMPENSATION**

- Report supplied through Enterprise Income Verification (EIV) showing the amount of benefits and the current pay status.
- Mail EDD form to Sacramento for written third-party verification.
- Telephone contact with appropriate agency is documented in FH file.
- Copies of checks or records from agency provided by applicant/participant stating payment amounts and dates; or benefit notification letter or Employment Development Department (EDD) printout provided by applicant/participant.

### **7.5.4 WELFARE PAYMENTS**

1. WHIS or Notice of Action provided by applicant/participant.
2. Self-declaration by family or by applicant/participant is not applicable.

### **7.5.5 STUDENTS AND HCV ASSISTANCE IN THEIR INDIVIDUAL CAPACITY**

The restriction on eligibility of students is covered in Chapter 4 of this Plan.

Income must be verified for the student according to all other regular verification requirements stated in this Administrative Plan, with the following exception:

As it relates to the verification of a parent(s) income, FH may accept from a parent(s) a declaration and certification of income, which includes a penalty of perjury.

For the purposes of determining eligibility of a person to receive assistance under the Eligibility of Students rule, refer to Chapter 6.2.1.

### **7.5.6 ALIMONY OR CHILD SUPPORT PAYMENTS**

1. Written third party can include:
  - Copy of a separation or settlement agreement or a divorce decree provided by the court stating amount and type of support and

payment schedules; or

- Print out supplied directly to FH by Family Support Division or other agency showing amount of child support being paid to client; or
  - A signed and dated letter from the non-custodial person.
2. Telephone contact with non-custodial person or income source documented by FH in client file.
  3. Documentation provided by the applicant/participant
  4. Printout from Family Support Division
  
  5. A written statement from an attorney certifying that a collection or enforcement action has been filed.

### **7.5.7 SELF EMPLOYMENT INCOME**

[24 CFR.5.609 (b)(2)]

In order to verify the net income from self-employment, FH will view IRS federal income tax return, and financial documents from prior years and use this information to anticipate the income for the next twelve months. The family must provide a copy of its prior year's federal income tax return, if it was filed.

Acceptable methods of verification include:

- IRS Form 1040, including:
  - Schedule C (Small Business)
  - Schedule E (Rental Property Income)
  - Schedule F (Farm Income)

Note: 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.

Note: If client does not have a copy of his tax return, he can request from IRS Form 4506, to obtain copy of the return.

2. Third-party verification from customers as to how much they paid the self-employed person.
3. Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.

Note: This type of verification is only acceptable until FH educates the family on the verification method required of the family; FH may require the family come back in 90 days for an interim appointment with the verifications required for this type of income.

### **7.5.8 CHILD CARE BUSINESS**

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

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), FH will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are

being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

The family must provide a copy of its federal income tax return, if it was filed. If childcare services were terminated, a third-party verification will be sent to the parent whose child was cared for.

### **7.5.9 REGULAR CONTRIBUTIONS AND GIFTS**

[24 CFR 5.609]

Regular contributions and gifts received from persons outside the assisted household are counted as income. It does not include casual contributions or sporadic gifts. If the family's expenses exceed its reported income, FH will inquire of the family regarding contributions and gifts.

The family must furnish the following information:

- The person who provides the gifts
- The value of the gifts
- The regularity (dates) of the gifts
- The purpose of the gifts

FH will verify information provided by participants. A verification form will be sent to the provider for certification purposes.

### **7.5.10 ZERO ANNUAL INCOME STATUS**

FH will employ the use of the UIV process (e.g., TANF, EIV, work number) and other written third party verifications when the family claims to have no other income.

FH may request information from the State Employment Development Department.

### **7.5.11 FULL-TIME STUDENT STATUS**

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

Financial aid, scholarships and grants received by full-time students is not counted towards family income.

Verification of full-time student status includes:

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



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

- Oral third-party must be documented in the applicant/participant file.
- If verification cannot be received directly from the educational institution to FH, the file must be documented with the reason.

## **7.6 INCOME FROM ASSETS**

Acceptable methods of verification include, in this order:

### **7.6.1 SAVINGS ACCOUNT INTEREST INCOME AND DIVIDENDS**

Will be verified as follows:

1. Account statements, passbooks, certificates of deposit, or FH verification forms completed by the financial institution. Please refer to Section 7.7 below regarding a temporary policy related to assets.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution, provided that FH must adjust the information to project earnings expected for the next 12 months.

### **7.6.2 INTEREST INCOME FROM MORTGAGES OR SIMILAR ARRANGEMENTS**

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

### **7.6.3 NET RENTAL INCOME FROM PROPERTY OWNED BY FAMILY**

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

self-certification as to net income realized.

## **7.7 VERIFICATION OF ASSETS**

FH will obtain third-party verification of all family assets upon admitting a family to the Housing Choice Voucher program and then again at least every 3 years thereafter.

Whenever a family member is added, FH will obtain third-party verification of that family member's assets.

FH will require the following necessary information to determine the current cash value, (the net amount the family would receive if the asset were converted to cash):

- Verification forms, letters, or documents from a financial institution or broker.
  - Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
  - FH will accept a family's declaration of the amount of assets of less than \$5,000 and the amount of income expected to be received from those assets. The documentation in the annual reexamination packet, which has the signatures of all adult family members, can serve as the declaration.
- Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
- Real estate tax statements if the approximate current market value can be deduced from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.

### **7.7.1 ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE (FMV)**

At certification and re-certification, FH will obtain the family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies it has disposed of assets for less than fair market value, documentation is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the

market value of the assets at the time of disposition.

## **7.8 VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**

### **7.8.1 CHILD CARE EXPENSES**

1. Written verification from the person who receives the payments is required. If the child care provider is an individual, he or she must provide a statement of the amount they are charging the family for their services.
2. Verifications must specify the child care provider's name, address, telephone number, social security number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including adjusted figures for school and vacation periods.
3. Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

### **7.8.2 MEDICAL EXPENSES**

If the head of household or spouse is at least 62, handicapped or disabled, the family is eligible for the medical expense deduction. If the household is eligible for a medical expense deduction, the medical expenses of all family members are counted.

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

Medical expenses are expenses anticipated for the 12 months following the certification or recertification, which are not covered by an outside source such as insurance and not reimbursed by an outside source, and which exceed three percent of the gross annual income of the family.

Families who claim medical expenses, must submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source.

All expense claims will be verified by one or more of the methods listed below:

- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of
  - (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and
  - (b) the expenses to be reimbursed by insurance company, or employer, of health insurance premiums to be paid by the family or a government agency.

- Written confirmation from the Social Security Administration on Medicare premiums to be paid by the family over the next twelve months. A computer printout or a copy of award letter indicating Medicare deductions will be accepted.

For attendant care:

- A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
- Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.

Documentation provided by the Family may include:

- Receipts, canceled checks, or pay stubs that clearly reflect and describe medical costs and insurance expenses likely to be incurred in the next twelve months.
- Copies of payment agreements or most recent invoices that verify payments made on outstanding medical bills which will continue over all or part of the next twelve months.
- Receipts or other record of medical expenses incurred during the past twelve months that can be used to anticipate future medical expenses. FH may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.

Note: FH will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

### **7.8.3 DISABILITY ASSISTANCE EXPENSES**

[24 CFR 8.28 and 24 CFR 5.603(b)]

Families may deduct anticipated expenses for attendant care and any auxiliary apparatus for disabled family members if they:

- Exceed 3 percent of annual income;
- Enable an adult family member (including the disabled family member) to work; and
- Do not exceed the earned income of the household member(s) enabled

to work.

Required Certification / Verification:

1. In All Cases:

- a. Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed; and
- b. Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

2. For Attendant Care:

- a. Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided. And, written certification from doctor or rehabilitation agency that care is necessary to employment of household member. (Always obtain this); and
- b. Certification of family and attendant and/or copies of canceled checks family used to make payments.

3. Auxiliary Apparatus expense verifications include:

Receipts for purchases, or proof of monthly payments, and maintenance expenses for auxiliary apparatus; or written certification from doctor or rehabilitation agency that use of apparatus is necessary to employment of any household member. In case where the disabled person is employed, statement from employer that apparatus is necessary for employment.

#### 7.8.4 Medicare Prescription Drug

The permanent Medicare Prescription Drug Plan benefit took effect January 1, 2006. FH's must treat any Medicare prescription drug discount cards and transitional assistance received by a family as a standard medical deduction so that the family continues to receive a deduction for the full cost of its prescription drugs.

- This means that neither the drug discount nor the transitional assistance should be considered in reimbursement for the purpose of calculating the family's medical expense deduction.
- This also means that FH must verify the FULL cost of the family's prescription drugs, not the out-of-pocket cost to the family.

#### 7.9 VERIFYING NON-FINANCIAL FACTORS

### 7.9.1 VERIFICATION OF LEGAL IDENTITY

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

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

Verification of Legal Identity for Adults	Verification of Legal Identity for Minors
<ul style="list-style-type: none"><li>• Certificate of Birth, naturalization papers</li><li>• Current, valid Driver's license</li><li>• U.S. military discharge (DD 214)</li><li>• U.S. passport</li><li>• Department of Motor Vehicles Identification Card</li><li>• Church issued baptismal certificate</li><li>• Current employer identification card</li><li>• An original document issued by a federal, state, or local government agency with the individual's name and SSN. This could include welfare agency documents, military papers, unemployment insurance documents, or any other government-issued documentation.</li></ul>	<ul style="list-style-type: none"><li>• Certificate of birth</li><li>• Adoption papers</li><li>• Custody agreement</li><li>• Health and Human Services ID</li><li>• Certified school records</li></ul>

If none of these documents can be provided and at FH'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 FH and/or be signed in the presence of a FH representative.

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

### 7.9.2 VERIFICATION OF MARITAL STATUS

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a separation or divorce, the PHA will require the family to provide documentation of the divorce or separation.

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

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

Verification of marriage status is a marriage certificate.

### **7.9.3 FAMILIAL RELATIONSHIPS**

The following verifications will always be required if applicable:

1. Verification of Family Relationship Due to Blood:
  - Birth Certificates
  - Baptismal certificates
2. Verification of Guardianship is:
  - Court-ordered assignment
  - Verification from social services agency
  - School record
3. Verification of Adoption is:
  - Any legal document showing evidence of the adoption
  - Verification from social services agency
  - School record
4. Verification of Family Relationship under Operation of Law:
  - Any legal document showing evidence of the relationship; this will vary depending upon the operation of law. For example, for verification of a Registered Domestic Partnership established in California, ask for a copy from each partner of the Declaration of Domestic Partnership that was filed with the Secretary of State.
5. When the Family is not Related by Blood, Marriage, Adoption, or Other Operation of Law, Evidence of:
  - Joint bank accounts or other shared financial transactions
  - Leases or other evidence of prior cohabitation



- Credit reports showing relationship

#### **7.9.4 VERIFICATION OF PERMANENT ABSENCE OF FAMILY MEMBER**

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

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
- Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
- If no other proof can be provided, FH will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.
- If the adult family member is incarcerated, a document or verbal verification from the court or prison should be obtained stating how long they will be incarcerated.

#### **7.9.5 VERIFICATION OF CHANGE IN FAMILY COMPOSITION**

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

#### **7.9.6 VERIFICATION OF DISABILITY**

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

If FH gets written certification that the disability is permanent, FH will only require documentation of disability one time.

Targeted programs serving the disabled population are referral-based programs. The referring agency will certify on the referral form that the client is disabled, will

maintain clinical analysis records in their files, and attach the signed physician's certification that the client meets the HUD definition of disability. (Needed only if client is not already receiving Social Security or SSI disability benefits).

### **7.9.7 VERIFICATION OF CITIZENSHIP/ELIGIBLE IMMIGRANT STATUS**

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

- a. Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. FH will require citizens to provide documentation of citizenship.

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

- United States birth certificate
  - United States passport
  - Resident alien/registration card
  - Social security card
  - Other appropriate documentation as determined by FH
- b. Eligible Immigrants age 62 and over are required to sign a declaration of eligible immigration status and provide proof of age.
  - c. Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. FH verifies the status through the INS SAVE system. If this primary verification fails to verify status, FH must request within ten days that the INS conduct a manual search.
  - d. Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.
  - e. Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are

listed on the statement of ineligible members.

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

#### Time of Verification

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

For participants, it is done at the first regular recertification after June 19, 1995. For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the Initial Housing Authority does not supply the documents, FH must conduct the determination.

#### Extensions of Time to Provide Documents

FH will grant an extension of up to 30 calendar days for families to submit evidence of eligible immigrant status.

#### Acceptable Documents of Eligible Immigration

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

If FH determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for 24 months, unless the ineligible individual has already been considered in prorating the family's assistance [24 CFR 5.514(c)(1)(iii)].

## **7.9.8 VERIFICATION OF SOCIAL SECURITY NUMBERS**

[24 CFR 5.216(g), PIH Notice 2018-24]

### **SSN Disclosure**

In accordance with 24 CFR 5.216, applicants and participants (including live-in aides, foster children, and foster adults) are required to disclose his/her SSN as part of HUD's mandatory income matching program, with the exception of the following individuals:

#### **Individuals exempt from disclosure:**

- Individuals who do not contend to have eligible immigration status
- Tenants age 62 or older as of 01/31/2010
- Tenants who have previously disclosed a valid SSN

#### **Acceptable SSN Documentation**

Three forms of documentation of an SSN are acceptable to HUD:

- An original SSN card issued by the Social Security Administration (SSA) (Refer to PIH Notice 2018-24, Section 6 for a description of the three types of SS cards that SSA issues.)
- Documentation issued by the Social Security Administration that contains the name and SSN of the individual (e.g., a benefit award letter, Medicare card, or printout).
- An original document issued by a federal, state, or local government agency with the individual's name and SSN. This could include welfare agency documents, military papers, unemployment insurance documents, or any other government-issued documentation.

#### **Rejection of Documentation**

FH may not reject documentation of an SSN unless it:

- Is not original,

- It does not appear to be authentic,
- It is not legible, or
- It has been altered or mutilated.

In such cases, FH should explain the reason for the rejection and request that acceptable documentation be provided **within ten calendar days of the request date.**

### **Verification of the SSN**

After the Housing Specialist has obtained acceptable documentation of an individual's SSN under the normal certification timelines, the Housing Specialist must;

- Make a copy of the original documentation and retain the copy in the applicant/tenant file;
- Record the SSN on line "3n" of form HUD-50058; and
- Transmit the form to HUD at the time the certification is transmitted in PIC.
- FH must submit the form no later than 30 calendar days of receiving the SSN documentation to enable HUD to initiate its computer matching efforts for current program participants.

After HUD validates the SSN through its computer matching program with SSA, the Housing Program Coordinator may destroy the copy that was made of the SSN documentation and replace it with the household's Summary Report no later than the next annual re-exam. This encourages minimizing the risk of exposing an individual's SSN to theft or misuse by minimizing the number of records that display the individual's full nine-digit SSN. The report is confirmation of compliance with the new SSN disclosure, documentation, and verification requirements.

FH will retain EIV reports in tenant files "for the duration of tenancy" and up to three years after program participation ends.

### **Individuals without an Assigned SSN**

Citizens and lawfully present noncitizens who state that they have not been assigned an SSN by the SSA will make such declaration in writing and under penalties of perjury to FH. FH will maintain the declaration in the tenant file "for the duration of tenancy" and up to three years after program participation ends.

FH will use the Alternate ID generator within PIC to generate a unique identifier for those individuals who do not have or are unable to disclose a SSN. Once an

individual discloses a SSN, FH will use the tenant id management tool to replace the alternate id with the disclosed SSN within 30 calendar days of receipt of the SSN.

### **Addition of a New Household Member**

When a participant requests to add a new household member, who is at least six years of age or under the age of six and has an assigned SSN, to the family the participant:

- Must disclose the SSN and provide documentation of the SSN to FH at the time of request to add new household member.
- The new household member cannot be added to the family composition until the family has complied with the SSN disclosure and verification requirements.

Children under the age of six (6) and who have not been assigned a SSN, may be added, with a grace period of 90 days to provide SSN documentation. FH will grant one additional (90 ) day extension (for a total of 180 days) if needed for reasons beyond the participant's control such as delayed processing of SSN application by the SSA, natural disaster, fire, death in family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, FH will terminate the individual's assistance.

### **Applicants**

When the family lacks the documentation necessary to verify the SSN of a family member under the age of six, In terms of offering a grace period and an extension, if merited, a PHA will implement the same provisions as it implements for program participants. Specifically, an applicant family with a child under the age of 6 years may become a participant family, even if the SSN for the child has not been verified at the time of admission.

This provision considers applicant families who adopt a child or add a foster child within the 6-month period preceding their admission to the program; such a child may already have been assigned a SSN, but there may be circumstances that make it difficult for the adoptive or foster family to obtain the documentation in a timely fashion.

### **Disclosure of Participants Newly Assigned SSN**

If the participant or any new member of the participant's household has been

assigned a new SSN, the participant must disclose the new SSN at the earlier of:

- Next interim re-exam, or
- Next regularly scheduled re-exam, or moving re-exam.

### **Penalties for Failure to Disclose SSN**

In accordance with 24 CFR 5.218, the following penalties apply for noncompliance with the SSN disclosure and documentation requirements. (See Chapter 4.18 if falsified SSN documentation was provided).

### **Participants**

If a program participant who is required to meet the new requirements fails to meet them within a specified time frame (including any extension), FH must terminate the assistance and/or tenancy of the participant's entire household.

However, an exception to required termination of assistance may be granted by FH, if in its discretion; it determines that there were unforeseen circumstances beyond the participant's control. In such cases FH will allow up to an additional 90 calendar days to disclose the SSN.

If the family is unable to comply with the requirements by the specified deadline, FH must terminate the tenancy or assistance, or both of the entire family.

### **Non-Contending Members without a SSN**

The new rules do not apply to persons not here legally who have signed or will sign a non-contending form.

## **7.10 MEDICAL NEED FOR A LARGER UNIT**

Families may request approval of a larger voucher/subsidy for a larger unit to accommodate medical equipment. If the family submits written certification from a reliable, knowledgeable professional, such information will be considered by FH in determining whether to grant an exception to the subsidy standards as a reasonable accommodation. However, when the medical equipment that can be stored in the disabled person's bedroom and/or in other living space throughout the unit, the family does not qualify for additional subsidy.

## **7.11 VERIFICATION OF WAITING LIST PREFERENCES**

See Chapter 3 of this Administrative Plan for verification of waiting list preferences.

### **7.12 VERIFICATION UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

When a victim of domestic violence requests special consideration, ( e.g. to transfer to another unit during the first year of tenancy, or to refrain from being terminated from the HCV program due to being evicted from a unit as the result of being a victim of a domestic violence act) , FH will require that the individual certify via a HUD-approved certification form that s/he is a victim of domestic violence, dating violence, sexual assault, or stalking, and that the incident or incidents in question are bona fide incidents of the actual or threatened abuse; as well as to provide any documentation required by FH from one of the following:

- Completing HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking"
- Other documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the side effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury that the incident or incidents in question are bona fide and meet the requirements of the applicable definition set forth in this policy.
- Police or court record - provided to the FH by federal, state, tribal, or local police or court record describing the incident or incidents in question.



## CHAPTER 8: VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302, 985 (g) (3) (c)]

### 8.1 INTRODUCTION

When eligibility has been determined, FH will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, FH procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration.

This chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for the issuance and term of the voucher. It consists of two sections: briefing and voucher issuance.

#### SECTION ONE: BRIEFING

### 8.2 Mandatory FH BRIEFING of the Family

[24 CFR 982.301]

#### 8.2.1 INITIAL APPLICANT BRIEFING

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance prior to issuance of a voucher. At the discretion of FH, briefings will be conducted either online or in person. Families who attend a briefing and still have the need for individual assistance may be referred to a Housing Navigator.

Briefings for the HCV program will be conducted in English. For Limited English Proficiency (LEP) applicants, FH will provide translation services as described in Chapter 1, *Limited English Proficiency (LEP) Translation Services*.

The purpose of the briefing is to provide information to ensure the applicant is successful in their housing search and to explain the documents in the applicant's briefing packet so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The documents and information provided in the briefing packets for the voucher program will comply with all HUD requirements. FH also includes other information and/or materials which are not required by HUD.

If the family includes a person with disabilities, FH will ensure compliance with 24

CFR 8.6 to ensure effective communication.

### **8.2.2 ORAL BRIEFING**

[24 CFR 982.301 (a)]

The briefing will include information on the following topics:

- How the HCV program works
- Family and owner responsibilities
- Where the family may lease a unit, including renting a unit inside or outside FH jurisdiction
- For a family that qualifies to lease a unit outside FH's jurisdiction under portability procedures, the information packet must include an explanation of how portability works. FH will not discourage the family from choosing to live anywhere inside or outside FH's jurisdiction under portability procedures. (See Chapter 13, *Restrictions on Moves* if the family requests to exercise portability procedures during the initial year of assisted occupancy).
- An explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- Maps that shows various areas with housing opportunities outside areas of poverty or minority concentration both within its jurisdiction and neighboring its jurisdiction. FH has assembled information about the characteristics of those areas which may include information about job opportunities, schools, transportation and other services. FH can demonstrate that it uses the maps and area characteristics information when briefing rental voucher holders about the full range of areas where they may look for housing.

### **8.2.3 BRIEFING PACKET**

[24 CFR 982.301(b)]

The family is provided with the following information and materials:

1. The term of the voucher (the amount of search time the family has to locate a unit), along with FH policy for approving a request for additional search time; and FH's policy on any extensions or suspensions of the term.
2. If extensions are allowed, an explanation of how the family can request an extension.

3. How FH determines housing assistance payment for the family including:
  - a) How FH determines the payment standard for the family
  - b) How FH determines Total Tenant Payment (TTP); and
  - c) Information on the payment standard and FH utility allowance schedule
4. How FH determines the maximum allowable rent for an assisted unit, including the rent reasonableness standard.
5. Where the family may lease a unit, along with an explanation of how portability works including a portability contact person list of neighboring PHA's.
6. HUD-required tenancy addendum, which must be included in the lease.
7. FH policy on providing information about families to prospective owners.
8. FH subsidy standards (how the bedroom size of a voucher is determined by FH) including when FH will consider granting exceptions to the standards; also how voucher size relates to the unit size selected.
9. The HUD brochure entitled "A Good Place to Live" on how to select a unit that complies with HQS.
10. The HUD brochure on lead-based paint and information about where blood level testing is available.
11. Information on federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form. FH will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws.
12. A list (link) of landlords willing to lease to assisted families, as posted on FH website. (for example, online search tools)
13. If the family includes a person with disabilities, FH will provide a list of available accessible units known to FH.
14. The Family Obligations under the program.
15. The grounds on which FH may terminate assistance for a participant family because of family action or failure to act.
16. FH informal hearing procedures including when FH is required to offer a

participant family the opportunity for an informal hearing, and how to request the hearing.

17. An HQS checklist.

18. Procedures for notifying FH and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.

19. The family's rights as a tenant and a program participant.

20. Requirements for reporting changes between certifications.

21. VAWA certification form

22. In an effort to inform housing and neighborhood choice, area maps representing housing opportunities located in the city and county with less concentrated poverty (identified by census tract) are also included in the briefing packet. Families must sign a statement acknowledging receipt and understanding of the briefing packet.

#### **8.2.4 SCHEDULING THE BRIEFING**

FH will not issue a voucher to a family unless the household representative (Head of Household, Spouse, Co-Head, or other adult member of the household) has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend 2 scheduled briefings, without prior notification and approval of FH, may be denied issuance of a voucher based on failure to attend the briefing.

FH will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

### **8.3 ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION**

#### **8.3.1 FH-IDENTIFIED AREAS OF POVERTY AND MINORITY CONCENTRATION**

*(See Maps A and B at the end of this chapter).*

FH is committed to taking action to encourage participation by owners of units located outside areas of minority and poverty concentration. These areas have

been identified in maps A and B based on 2015 minority and poverty US census data and are described later in this chapter under the section entitled, “Identifying Non-Impacted Areas of Housing Opportunities”. This information will be available to voucher holders and program participants searching for housing and is shared at the briefings with our families as an incentive to consider locating in other non-impacted areas of the City.

### **8.3.2 IDENTIFYING NON-IMPACTED AREAS OF HOUSING OPPORTUNITIES**

Non-impacted areas are predominantly located north of Shaw Avenue, both in Fresno and in Clovis, and east of Willow Avenue in Clovis, as shown in Map A. As shown in Map B, non-impacted areas are predominantly located in the eastern portion of the City of Fresno. These maps are available for families searching for units and used in briefing families to explain the benefits of locating outside areas of poverty or minority concentration.

FH conducts active outreach to landlords in the community through its monthly participation at the California Apartment Association meetings. In addition, periodic outreach is done to large apartment complexes. Encouraging owners to rent units which are located throughout the city, including non-impacted areas is a part of this outreach.

### **8.3.3 MAPS AND CRITERIA ABOUT NON-IMPACTED AREAS**

The briefing materials contain maps and information about the characteristics of various non-impacted areas in the Fresno jurisdiction to educate families regarding various opportunities in these areas.

### **8.3.4 LISTS OF OWNERS WHICH INCLUDES PROPERTIES IN NON-IMPACTED AREAS**

FH will provide a link to a list of owners that can assist families in locating units outside impacted areas. This Rental Listing is located online at [www.gosection8.com](http://www.gosection8.com). Copies may be obtained by the family when they attend a briefing.

### **8.3.5 PORTABILITY/AREAS WHERE THE FAMILY CAN LIVE**

The briefing packet contains FH policy on allowable moves under portability as well as any restrictions on such a move. It also includes a list of housing authorities with their address and phone numbers in the surrounding area for families who wish to exercise their portability options. For additional information on portability, see Chapter 13.

### **8.3.6 ANALYSIS OF NEED FOR EXCEPTION PAYMENT STANDARDS**

Each year when the SEMAP certification is completed, an analysis is conducted to compare families with children who live in areas of low poverty with those who live in areas which are at or above the overall poverty rate for the principal operating area of FH. Each year over 40% or more of the families have been living in low poverty areas. While the City of Fresno does have pockets of high poverty, with over 100 census tracts, most program participants have succeeded in locating

in non-impacted areas. Therefore, there has not been a need for an exception payment standard to provide expanded housing opportunities for our clients.

## **SECTION TWO: VOUCHER ISSUANCE**

### **8.4 ISSUANCE OF VOUCHERS**

[24 CFR 982.302, 982.54(d)(2)]

When funding is available, FH will issue vouchers to applicants whose eligibility has been determined. The issuance of vouchers must be within the dollar limitations set by the Annual Contributions Contract (ACC) budget.

FH will obtain new verifications, for applicants, if verification are more than 60 days old at the time of issuing a new voucher.

### **8.5 TERM OF VOUCHER**

[24 CFR 982.303, 982.54(d) (2)]

During the briefing session, each household will be issued a voucher which represents a contractual agreement between FH and the Family specifying the rights and responsibilities of each party. The voucher certifies that the family is eligible to participate in the HCV program, the unit size of the voucher, and how long the family has to search for a unit. It does not constitute admission to the program which occurs when the lease and contract become effective.

FH will set the voucher term at 60 days. If more search time is needed the family may request an extension, according to the policies in this chapter.

The family must submit a Request for Tenancy Approval within the term listed on the voucher, unless an extension has been granted by FH.

#### **8.5.1 SUSPENSIONS**

[24 CFR 982.303]

When a Request for Tenancy Approval is received, FH will deduct the number of days required to process the request from the term of the voucher (called tolling or suspension).

#### **8.5.2 EXTENSIONS**

Any requests for an extension of the voucher time period, must be made prior to the expiration date of the voucher. Extensions may be granted with supervisory approval at the discretion of FH, primarily for, but not exclusive of, any of the following reasons:

- It is necessary as a reasonable accommodation for a person with disabilities,



- Extenuating circumstances such as illness, hospitalization, a family emergency, or VAWA which affected the family's ability to find a unit within the voucher time period;
- Family can show evidence, through a completed search record, that they were unable to locate a unit;
- Family has submitted Request(s) for Tenancy Approval that FH has disapproved (i.e., FH unable to negotiate rent(s) with owner or unit(s) do not meet HQS);
- Family size or other special requirements made finding a unit difficult.

FH will request proof to substantiate the need for an extension. The family may request one or more extensions.

### **8.5.3 ASSISTANCE TO VOUCHER HOLDERS**

Families who require additional assistance during their search may call FH Office to request assistance. Families may also access listings of available units by contacting our office or visiting our agency website at [www.fresnohousing.org](http://www.fresnohousing.org).

### **8.5.4 EXPIRATIONS**

If the voucher has expired, or expires after an extension, the applicant will be denied assistance and a participant family's assistance will end. The family will not be entitled to a review or a hearing.

### **8.6 VOUCHER ISSUANCE DETERMINATION FOR FAMILY BREAK UPS**

[24 CFR 982.315]

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L, the FH must ensure that the victim retains assistance.

FH shall have discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up. FH will require information to determine who will be issued the voucher.

Other factors to be considered in making this decision includes:

1. Whether the assistance should remain with family members remaining in the original assisted unit.
2. The interest of minor children or of ill, elderly or disabled family members.
3. Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking.

4. Whether any of the family members are receiving protection as victims of domestic violence, dating violence, sexual assault, or stalking, and whether the abuser is still in the household.
5. Whether family members are forced to leave the unit as a result of actual or threatened physical violence against family members by a spouse or other member of the household.
6. Recommendations of social service agencies or qualified professionals such as Fresno County Child Welfare Services.

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, FH will terminate assistance on the basis of failure to provide information necessary for a recertification. If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the FH is bound by the court's determination of which family members continue to receive assistance in the program.

#### **8.7 REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER**

To be considered the remaining member of the tenant family, the person must have been previously approved by FH to be living in the unit. A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the tenant family.

In order for a minor child to continue to receive assistance as a remaining family member:

1. The court has to have awarded emancipated minor status to the minor; or
2. FH has to have verified that the local social services agency and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.
3. The adult brought into the assisted unit to care for the children must be approved by FH, and pass criminal background screening requirements.

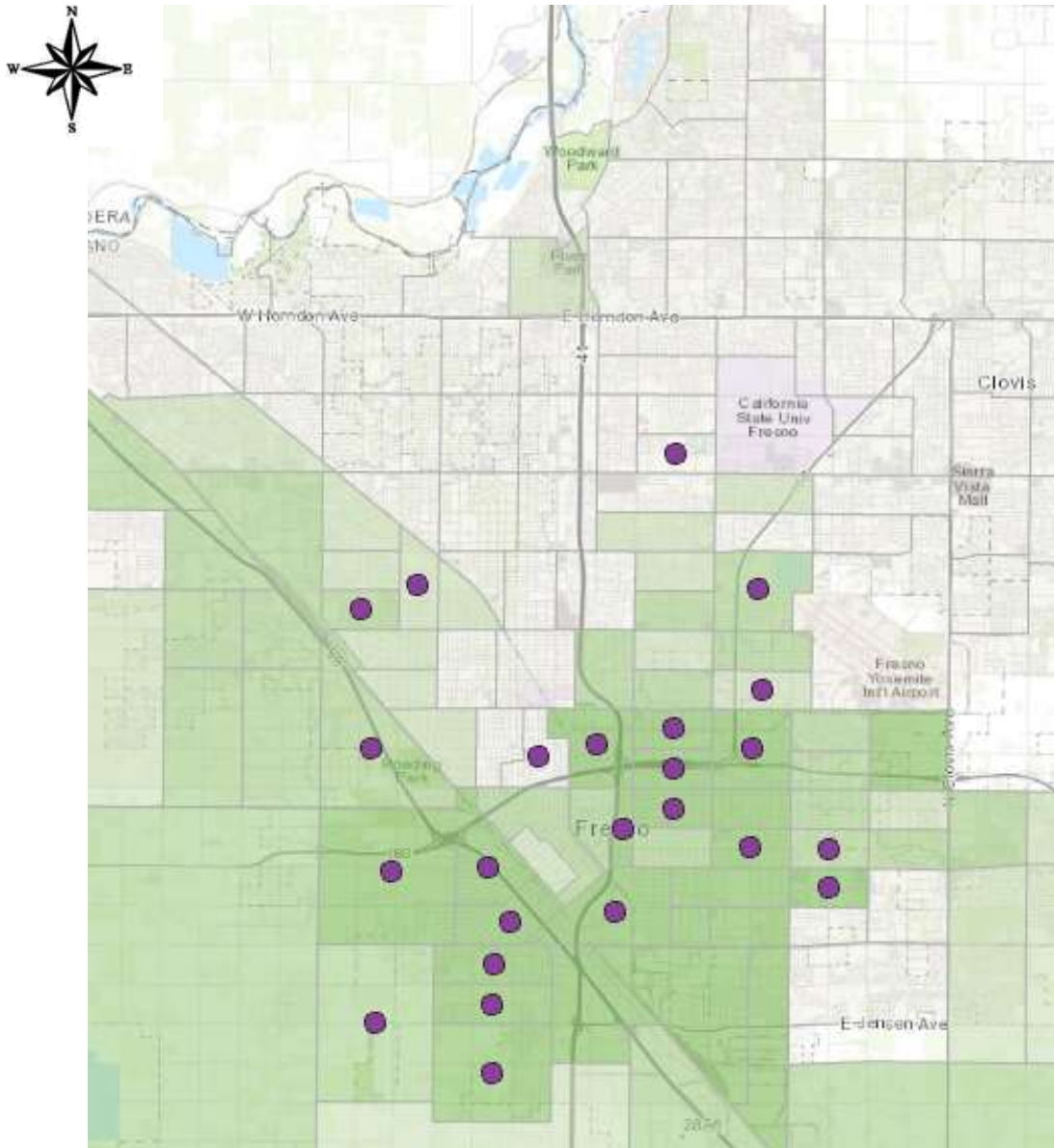
A reduction in family size may require a reduction in the voucher size.

#### **8.8 VOUCHER ISSUANCE OF PRIORITY**

FH's established order of priority for the Housing Choice Voucher program, as set forth in FH's Annual Plan, are prioritized in accordance with the following HCV Priority Codes (1= highest ranking; 7 = lowest ranking) (24 CFR 982.251 (2), 24 CFR 982.261 (a), (b), (c)).

<b>Order of Priority</b>	
Priority	Program Type & Requirements
1	PBV <ul style="list-style-type: none"> <li>• PBV Participant must have fulfilled the project-based voucher lease for a minimum of 12 months.</li> <li>• No outstanding debts and in good standing.</li> </ul>
2	VAWA Protection <ul style="list-style-type: none"> <li>• Current victims of domestic violence, dating violence, sexual assault, or stalking.</li> </ul>
3	FUP-Youth- <ul style="list-style-type: none"> <li>• Youths 18-21 years old (has not reached 22<sup>nd</sup> birthday) who left foster care at age 16 or older and lack adequate housing.</li> <li>• Youth Displaced by domestic violence and lack adequate housing.</li> </ul>
4	FUP- Families <ul style="list-style-type: none"> <li>• Must be enrolled in FSS program and signed a contract of participation for up to of 5 years.</li> <li>• Must participate simultaneously in both the FSS and FUP-Youth</li> </ul>
5	PBRA <ul style="list-style-type: none"> <li>• Must have fulfilled the PBRA lease for a minimum of 24 months.</li> <li>• Given proper notice, no debts owed, and in good standing.</li> </ul>
6	VASH <ul style="list-style-type: none"> <li>• Will be considered when program reaches 98% utilization or above.</li> </ul>
7	All other HCV applicants

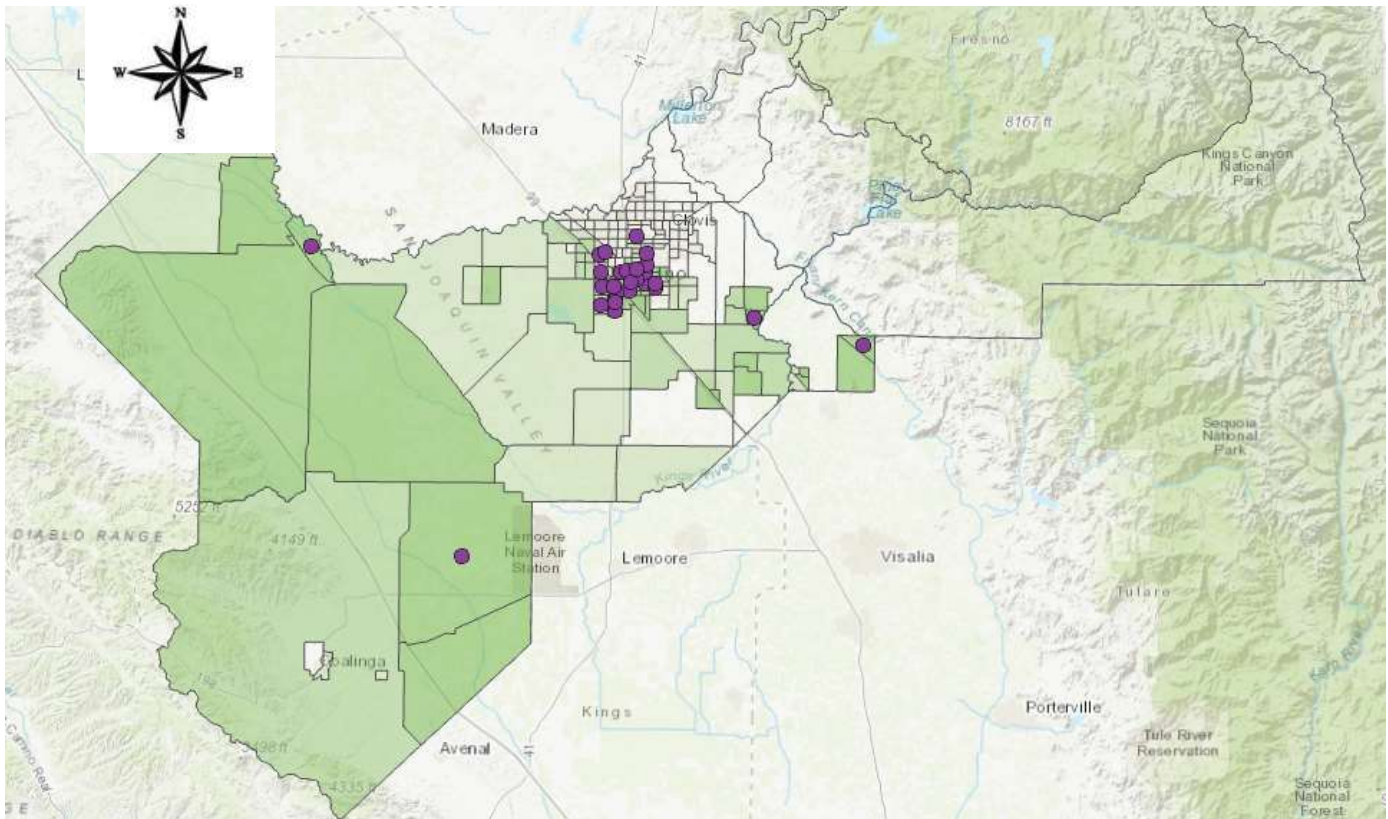
# MAP A: AREAS OF MINORITY AND POVERTY CONCENTRATION, FRESNO METROPOLITAN AREA



Map A: U.S. Census Bureau (2021). Minority and Poverty rates, 2014-2019 American Community Survey 5-year estimates.

Legend		
Minority Concentration		
70%	80%	90%
Poverty Concentration		
Equal to or greater than 40%		

**MAP B: AREAS OF MINORITY AND POVERTY CONCENTRATION, THE COUNTY OF FRESNO**



*Map B: U.S. Census Bureau (2021). Minority and Poverty rates, 2014-2019 American Community Survey 5-year estimates.*

<b>Legend</b>		
Minority Concentration		
70%	80%	90%
Poverty Concentration		
Equal to or greater than 40%		

## CHAPTER 9: RFTA AND CONTRACT EXECUTION

### 9.1 INTRODUCTION

[24 CFR 982.302(b)]

Once families are issued a voucher, they must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments (HAP) Contract with FH. This chapter covers FH's policies which pertain to the processing of Requests for Tenancy Approval (RFTA); the types of eligible housing which may be assisted; lease requirements; reasons for owner disapproval, and the HAP contract execution process.

Information regarding the initial inspection is covered in Chapter 10.

### 9.2 REQUEST FOR TENANCY APPROVAL (RFTA)

[24 CFR 982.305]

A Request for Tenancy Approval (RFTA) is the written request from the voucher holder and owner, submitted to FH for consideration and approval of a new tenancy.

#### 9.2.1 REQUIREMENTS FOR RFTA APPROVAL

[24CFR 982.302(c), 982.305]

The family must submit the RFTA and a copy of the proposed lease during the term of the voucher. The RFTA must be signed by both the owner and voucher holder. FH will not permit the family to submit more than one RFTA at a time.

FH will consider an RFTA approvable if all of the following criteria are met:

- Non-permitted, converted, free-standing or attached garages or other structures not intended to be living areas (see Chapter 10).
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan); (see Chapter 10 for HQS information).
- The rent is reasonable and approvable [24 CFR 982.507]; (see this Chapter and Chapter 11).
- The rent burden test must be met to ensure the family does not pay more than 40% of their adjusted monthly income towards rent and utilities (24 CFR 982.508).

- The proposed lease complies with HUD and FH requirements.
- The owner is approvable, and there are no conflicts of interest.
- All applicable lead-based paint disclosure requirements have been met; (see Chapter 10, *Lead-Based Paint & HQS*).
- The owner has not been debarred by HUD; or disapproved by FH in the last three years.
- The unit is not subject the restriction on renting from relatives rule; see Chapter 9.4.

The family must submit an approvable RFTA before the end of the voucher period or assistance will terminate. For information regarding term of voucher as it relates to search time; see Chapter 8, Term of Voucher [24 CFR 982.303, 982.54(d)(2)]

### **9.3 TYPES OF HOUSING**

[24 CFR 982.352, 982.54(d) (16)]

The family may receive tenant-based assistance to lease a unit located anywhere within the initial housing authority’s jurisdiction or outside the initial housing authority’s jurisdiction under the portability requirement, if eligible.

The family may select the dwelling unit they have been residing in prior to participation in the program if the unit is approvable and all other criteria is met. This is called leasing in-place.

#### **9.3.1 ELIGIBLE HOUSING TYPES**

Eligible housing types include the following:

- Single-family dwellings, including condos and townhouses.
- Manufactured homes where the family leases the mobile home and the pad [24 CFR 982.620(a) (2)].
- Manufactured homes where the family owns the mobile home and leases the pad [24 CFR 982.620(a) (3)].
- Multi-family dwellings (apartment buildings).
- Units owned but not subsidized by FH (HUD-prescribed requirement); see [24 CFR 982.352(b)].

However, there are some restrictions to the above:

- If the unit has other housing subsidy attached to it as described in [24 CFR



982.352(c)], a family may not receive the benefit of tenant-based assistance in such unit.

- FH may not permit a voucher holder to lease a unit which is receiving project-based Section 8 assistance or any duplicative rental assistance.

### **9.3.2 SPECIAL HOUSING TYPES**

[24 CFR 982.601-624]

FH will permit the following as eligible housing types if needed as a reasonable accommodation so that the program is readily accessible to and useable by persons with disabilities in accordance with 24 CFR Part 8:

- Shared housing
- Single room occupancy
- Congregate housing
- Group housing
- Cooperative housing

### **9.3.3 INELIGIBLE HOUSING TYPES**

[24 CFR 982.352(a)]

FH will not approve:

- A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes and shared housing as described above; or for the Homeownership Option described in Chapter 21 of this administrative plan.
- Nursing homes or other institutions that provide care.
- School dormitories and institutional housing.
- Structures that have not been properly converted. Owners will be required to provide finalized permits for all conversion work when the integrity and/or soundness of a structure are in question.
- Non-permitted, converted free-standing or attached garages or other structures not intended to be living areas.
- Any other types of housing prohibited by HUD.

The owner of the assisted unit may never be a live-in aide for the family.

#### **9.4 RESTRICTION ON RENTING FROM RELATIVES**

[24 CFR 982.306(d)]

A family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member, unless FH determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

#### **9.5 AFFORDABILITY**

[24 CFR 982.507, 982.308]

An affordability test will be completed by FH to determine the family's ability to qualify for a unit indicated on RFTA. This will ensure that the family does not pay more than 40% of their monthly adjusted income for the family's Total Tenant Payment (TTP).

Criteria used in calculating affordability are as follows:

- 30% of voucher holder's monthly adjusted income, or minimum rent (if applicable)
- Voucher size
- Unit size
- Type of unit
- Utility Allowance- Utilities and appliances and who supplies them
- Payment standard (lesser of voucher size or unit size)

The pro-rated percentage will also be considered in calculation of affordability for families with ineligible non-citizens (see 4.12.1).

#### **9.6 DISAPPROVAL OF RFTA**

[24 CFR 982.302(d)]

If FH determines that the request cannot be approved for any reason, the landlord and the family will be notified in writing. FH will do one of the following:

- Instruct the owner and family of the steps that are necessary to approve the request, if applicable.

- Disapprove the unit and furnish another RFTA form so that the family can continue to search for eligible housing, if time is available on their voucher.

FH will suspend the term of the voucher while the RFTA is being processed. Therefore, the length of time allotted to a family for the purpose of locating another unit will be based on the number of days left on the term of the voucher at the time the RFTA was received by FH [24 CFR 982.303(b)].

The family must submit an approvable RFTA before the end of the voucher period or assistance will terminate. For information regarding term of voucher as it relates to search time; see Chapter 8, *Term of Voucher* [24 CFR 982.303, 982.54(d)(2)]

## **9.7 LEASE AGREEMENTS**

[24 CFR 982.308, 982.309]

FH will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA. If there are any discrepancies the Tenancy Addendum will supersede. The HUD prescribed tenancy addendum must be attached and executed.

At minimum, the lease must specify the following information:

- The names of the owner and the tenant;
- The address of unit rented;  
The term of the lease including initial term and any provisions for renewal;
- The amount of the monthly rent; and
- A specification of which utilities and appliances will be supplied by the owner, and which are to be supplied by the family.

An addendum may be required if any of the above information is not included in the lease.

### **9.7.1 SEPARATE AGREEMENTS**

[24 CFR 982.510(c)]

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised at initial inspection of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by FH.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. If there is to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

FH is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed. All agreements for special items or services must be attached to the lease approved by FH. If agreements are entered into at a later date, they must be approved by FH and attached to the Lease.

## **9.8 LEASE PURCHASE AGREEMENTS**

[24 CFR 982.317(a)(b)]

A family leasing a unit with assistance under the program may enter into an agreement with an owner to purchase the unit. As long as the family is receiving rental assistance, all tenant-based program requirements apply.

Any homeownership premium included in the rent to the owner must be absorbed by the family, such as:

- Increment of value attributable to the value of the lease-purchase right; and
- Agreement such as an extra monthly payment to accumulate a down payment or reduce the purchase price.

Any homeownership premium paid by the family to the owner must also be excluded when FH determines rent reasonableness.

## **9.9 TERM OF ASSISTED TENANCY**

[24 CFR 982.309]

The initial lease term must be for at least one year under HUD regulations.

During the initial lease term, the owner may not raise the contract rent, except when permitted by special rules for subsidized units as described in [24 CFR 982.521].



## 9.10 INFORMATION TO OWNERS

[24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, FH will furnish prospective owners upon receipt of written request, copy of application to rent and signed consent to release information from client, with the following information:

- The family's current address as shown in FH's records; and
- If known to FH, the name and address of the landlord at the family's current and prior address.

FH will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

FH will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, eviction history, damage to units, and other factors related to the family's suitability as a tenant.

A statement of FH's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

FH will provide this information orally to the prospective landlord.

FH's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

## 9.11 OWNER DISAPPROVAL

[24 CFR 982.306]

FH will not approve an assisted tenancy if informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation.

*Mandatory Disapprovals* (24 CFR 982.306(b))

FH will disapprove the owner for the following reasons:

- HUD or other agency directly related has informed FH that the owner has been disbarred, suspended, or subject to a limited denial of participation under [2 CFR part 24].
- HUD has informed FH that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such

action is pending.

- HUD has informed FH that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
- The owner has a conflict of interest as described in HUD regulation [24 CFR 982.161(a)], and would therefore be unable to enter into a contract with FH.

FH may periodically check the following website address to determine if an owner has been debarred from participation under 2 CFR Part 24 at <https://www.sam.gov/portal/SAM>.

*Discretionary Disapprovals (24 CFR 982.306(c)).*

FH will publish the names of owners affected by this policy through internal memoranda and will take other action as needed to prevent contracting with such owners. The following violations may result in a discretionary disapproval by FH:

- The owner has violated obligations under a Housing Assistance Payments Contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
- The owner has engaged in any drug-related criminal activity or any violent criminal activity.
- The owner has fraudulently rented to a relative in violation of 24 CFR 982.306(d); see Chapter 9.4.
- 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 programs.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity 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:
  - a. Threatens the right to peaceful enjoyment of the premises by other residents;
  - b. Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;

- c. 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
- d. Is drug-related criminal activity or violent criminal activity; or
- The owner, owner's representative, and/or property management company has a history or practice of renting units that fail to meet State or local housing codes; this would include all relevant local code, including, but is not limited to, Site or Neighborhood Conditions as cited in Chapter 10: Housing Quality Standards and Inspections.
- The owner has not paid State or local real estate taxes, fines or assessments.

For purposes of this section, “owner” includes a principal or other interested party, such as the owner of a property, as well as, one or more principals of ownership or other interested parties in the property or ownership, including but not limited to the following: a property management company providing property management services at the property; a member or partner of the entity that is the owner of the property; and/or an owner’s representative.

If an owner, owner's representative, and/or property management company has committed fraud or abuse or is guilty of frequent or serious contract violations, FH may restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense, and may terminate some or all existing HAP contracts for assisted families with the owner, owner's representative, and/or property management company if FH determines it has violated the HAP contract for those units.

In considering whether to disapprove owners, owner representatives, and/or property management companies for any of the discretionary reasons listed above, FH will consider all mitigating factors. Such factors may include, but are not limited to, the seriousness of the violations in relation to program requirements, health and safety of participating families, documentation from enforcement agencies, and record of non-compliance/number of violations of said parties, among others. Upon consideration of such circumstances, FH may, on a case-by-case basis, choose to disapprove an owner, owner's representative, property management company, and/or identified property. If disapproval is warranted, the owner will be notified in writing by the Executive Director or designee of the reason(s) for the disapproval.

## **9.12 CONTRACT EXECUTION PROCESS**

[24 CFR 982.305(c)]



FH prepares the Housing Assistance Contract for execution. The family and the owner will execute the Lease agreement, and the owner and FH will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. FH will retain a copy of all signed documents.

FH makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the Contract is executed.

Any member of the Assisted Housing/Housing Choice Department's management team is authorized to execute a contract on behalf of the department.

Owners must provide the following information for contract execution:

- Owners must provide a current mailing address. If property is owned by a relative (where FH approved the unit as a reasonable accommodation) the owner must provide the current address of their residence (not a Post Office box) for comparison to the subsidized unit's address.
- Owners must provide an Employer Identification Number or Social Security Number.
- Owners must submit a completed and accurate W-9 form.
- Owners must submit a completed Owner Authorization form.
- Owners must provide their financial institution account information for the mandatory Electronic Funds Transfer (EFT) processing of HAP payments.
- Owners must provide a copy of management agreement between owner and person and/or company managing assisted property on owner's behalf, if applicable.

#### **9.12.1 CHANGE IN TOTAL TENANT PAYMENTS (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the Total Tenant Payment (TTP) prior to the effective date of the HAP Contract at admission, the information will be recorded. An interim adjustment to the TTP will be deferred until after the family leases up in the unit, unless to defer the interim adjustment would result in a hardship for the family. FH will review the need for an interim on a case-by-case basis.

#### **9.13 CHANGE IN OWNERSHIP**

A change in ownership does not require execution of a new contract.

FH will process a change of ownership only upon the written request of the new owner and only if accompanied by the following:

- A copy of the final closing escrow statement, recorded grant deed or other legal document showing the transfer of title;
- W-9 indicating the Employee Identification Number or Social Security Number of the new owner;
- W-9 substitute
- Owner Authorization form
- Owners current address and phone number
- Financial institution account information for EFT payment processing.
- Management agreement (if needed)

#### **9.14 CHANGE IN MANAGEMENT**

FH must receive a written request by the owner in order to change the HAP payee and/or the address to which payment is to be sent along with copy of management agreement between owner and managing agent/company and/or new account information if applicable.

## CHAPTER 10: HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401(a); FR Notice 01/18/2017]

### 10.1 INTRODUCTION

Chapter 10 describes FH's policies for conducting different types of inspections, and the standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with Housing Quality Standards (HQS) requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and FH requirements.

### 10.2 GUIDELINES/TYPES OF INSPECTIONS

[24 CFR 982.401(a), 982.405]

Housing Quality Standards (HQS) is the minimum quality standards set forth by HUD in 24 CFR 982.401 for tenant based programs. The standards are set in place to ensure that the assisted housing is decent, safe and sanitary. HQS standards apply to the site and neighborhood, as well as the unit.

There are four types of inspections FH will perform:

- **Initial/Move-in:** A unit must pass this HQS inspection before the Housing Authority will enter into a HAP Contract with the owner.
- **Annual:** FH may conduct HQS inspections at least biennially to ensure the unit continues to meet minimum HQS requirements; however, FH is electing to conduct annual HQS inspections until an appropriate methodology can be fairly applied to units without compromising the quality of housing.
- **Special/Complaint:** This inspection is conducted at the request of the owner, family or FH-approved entity and may also be initiated by FH. This inspection may be conducted without notice to verify program compliance.
- **Quality Control:** FH is required to perform quality control HQS inspections.

**FH-Owned Units:** FH must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a FH-owner unit. A FH-owned unit is defined as a unit that is owned by the housing authority that administers the assistance under the Consolidated Annual Contributions Contract (ACC) (including a unit owned by an entity substantially controlled by FH; see Chapter 22.13.6 – FHA-Owned Unit). The independent agency must communicate the results of each inspection to the family and FH. The independent agency must be approved by HUD, and may be the unit of general local government for FH's jurisdiction.

**Virtual HQS Inspections:** In accordance with HUD requirements, FH may

conduct the HQS inspection virtually. The family and owner are notified of the date and time of the inspection appointment by mail. If the family is unable to conduct a Virtual Inspection due to lack of technology, or physical restrictions, they may authorize a representative who is 18 years of age or older to be present and facilitate the Virtual Inspection. A Virtual Inspection will be initiated by inspector using a family preferred method, including but not limited to, FaceTime or Google Duo.

The family may decline the Virtual Inspection and will notify FH in writing if a physical Inspection is preferred. FH will then reschedule the inspection and the family and owner will receive a letter with a new scheduled date for the Inspector to physically inspect the assisted Unit.

The Virtual HQS Inspection will be performed in accordance with the HQS minimum quality standards set forth by HUD in 24 CFR 982.401 for tenant based programs.

### **10.2.1 INITIAL - MOVE-IN HQS INSPECTION**

[24 CFR 982.401(a)]

The owner or owner's representative must attend the initial inspection. The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Administrative Plan.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Confirm the information used for determination of rent-reasonableness.

If the unit fails the initial HQS inspection, the family and owner will be advised to notify FH once repairs are completed. The owner will be given up to 30 calendar days to correct the items noted as "fail".

The owner will be allowed up to one re-inspection for repair work to be completed. Additional time allowed for repairs will be at the inspector's discretion, depending on the amount and complexity of work to be done. Subsequent re-inspections will be scheduled at FH's discretion.

If the time period given by FH to correct the repairs has elapsed, or the unit fails the re-inspections, the unit will be disapproved and the family will be issued another RFTA to search for a unit which meets HQS.

### **10.2.2 ANNUAL HQS INSPECTIONS**

[24 CFR 982.405(a)]

In accordance with HUD requirements, FH may conduct a HQS annual inspection for each unit on the program at least once every 24 months. However, at its discretion, FH will conduct annual HQS inspections at least every 12 months until an appropriate methodology can be fairly applied to units without compromising the quality of housing. The family must allow FH to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551 (d)].

**Inspection:** The family and owner are notified of the date and time of the inspection appointment by mail and/or email. If the family is unable to be present, they may authorize a representative who is 18 years of age or older to be present to allow the inspector access to unit to conduct the inspection. The family may provide written permission for the property manager or owner to allow the inspector entry into the unit.

If the family (or an adult) is not present to allow access, the inspection is considered to be a participant-caused “no entry” and the participant will be in non-compliance for violating a Family Obligation. The family will be sent a non-compliance letter giving the family one final inspection appointment.

A "No Entry" inspection includes:

- The family was not home or did not answer the door.
- No adult present (18 years or older) in home.
- A loose animal prevented entry onto the property.
- The inspector was not allowed entry to the unit.

### **Unit Fails the First Inspection Due to Owner-Caused Failures**

If the unit fails inspection, correction of the fail items will be verified by one of two methods: HQS Self Repair Certification process or by re-inspection by FH.

**Re-inspection:** The family and owner are mailed a notice of the inspection appointment. If the family or owner does not allow access at the time of re-inspection, the unit will be considered a fail as the inspector was unable to verify repairs were completed.

The family is also notified that it is a Family Obligation to allow FH to inspect the unit. If the family was responsible for a breach of HQS identified in Chapter 15, they will be advised of their responsibility to correct.

### **Time Standards for Repairs**

1. Emergency items which endanger the family's health or safety must be

corrected by the responsible party within 24 hours of the inspection.

2. For non-emergency items, repairs must be completed within 30 days.
3. For major repairs, the supervisor may approve an extension.

The extension will be made for a period of time not to exceed 60 calendar days. At the end of that time, at FH's discretion, if the work is not completed, FH will begin the abatement for owners or termination of assistance for family breach of HQS.

FHHQS supervisor, assistant manager or manager will approve extensions for non-emergency repairs.

### **10.2.3 SPECIAL/COMPLAINT INSPECTIONS**

[24 CFR 982.405(c)]

If at any time the family, owner, or FH approved entity notifies FH that the unit does not meet HQS, FH may conduct an inspection. FH may attempt to verify that the family has submitted a maintenance request to the property manager or owner prior to requesting a complaint inspection. In addition, the owner may be asked to provide copies of notices to FH served to the family to cure any lease violations, prior to a complaint inspection being conducted.

FH may also conduct a special inspection based on information from third parties such as neighbors, the public health department, or public officials. HQS Inspectors identify units as needing a special inspection during neighborhood walks or in the course of performing other scheduled inspections.

FH will inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs. If the annual inspection is due, the special inspection may be categorized as an annual inspection and all annual procedures will be followed.

FH may conduct inspections more often for landlords whose properties require frequent complaint inspections and/or are at the risk of possible disapproval from the program according to FH's Administrative Plan, Section 9.11.

#### Receipt of Request for Complaint/Special Inspections

All complaint inspections must be reviewed within 24 hours of receipt. The Supervisor or HQS Enforcement Specialist will determine if the complaint or

request requires an emergency inspection. Emergency inspections must occur within 24 hours of the request.

#### **10.2.4 QUALITY CONTROL INSPECTIONS**

[24 CFR 982.405(b)]

The purpose of Quality Control inspections is to ensure that each HQS Inspector is conducting accurate and complete inspections, and to ensure that there is consistency among HQS Inspectors in the enforcement of the Housing Quality Standards.

#### **10.3 ADDITIONS TO HQS**

[24 CFR 982.401(a)]

FH adheres to the acceptability criteria in the program regulations and HUD Inspection Booklet with the additions described below.

##### Security:

If window security bars or security screens are present on emergency exit window, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

##### Bedrooms:

Minimum bedroom ceiling height is 7 feet or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

Note: If the unit meets the HQS requirement of being a bedroom and the owner is disputing the bedroom size of the unit:

- 1) It will be the owner's responsibility to provide adequate documentation to support a claim as to the larger bedroom size as related to the rent reasonableness determination; and
- 2) If the owner cannot provide the documentation requested by FH, the size of the unit will remain at the lower unit size.

Thermal Environment: Heating system in a HCV unit must be capable of maintaining an interior temperature of 70 Fahrenheit (Fresno Building Code, Section 11319).

Water heaters: Earthquake Straps for Water Heaters: Must be secured for seismic stability. All water heaters must be braced, anchored or strapped to prevent falling or movement during an earthquake (2010 CPC 508.2).

Other Structures: non-permitted, converted free-standing or attached garages or other structures (laundry rooms) not intended to be living areas will be inspected to ensure the safety of the residents.

Conversions: Owners may be required to provide finalized permits when the integrity and/or soundness of a structure are in question.

Elevators: Must have a current permit issued by the State of California. If the permit is expired and the owner can provide documentation from the State of California that the application is being process, the Housing Authority will pass the elevator in accordance with Section 7302 of the Labor Code as long as there are no obvious safety concerns present.

Access: The dwelling unit must be able to be used and maintained without unauthorized use of other private properties.

Landscape maintenance – Trees, shrubs and landscaping must be adequately maintained (County Code – Fresno Zoning Ordinance 850.B.6.3.

Hazardous trees and weeds – Dead, decayed, diseased or hazardous trees and overgrown weeds or grass (County Code – Fresno Zoning Ordinance 850.B.6.2.a.

Parking – Parking on the front yard or unapproved surface is prohibited (County Code – Fresno Zoning Ordinance 850.B.5.1.2.

Prohibited Vehicles – Front yard storage of boats, personal watercraft and trailers is prohibited (County Code – Fresno County Code of Ordinances, Title 11 Chapter 11.45 Prohibited Vehicles).

Inoperable Vehicles – Abandoned/inoperable vehicles on the public right of way is prohibited.

## **10.4 HQS DEFICIENCIES**

### **10.4.1 EMERGENCY FAIL DEFICIENCIES**

[24 CFR 982. 404(a) and (b); FR Notice 01/17/2017]

Only life-threatening items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of inspection.



The following deficiencies are considered life threatening emergency fails, and will cause a unit to be deemed uninhabitable if not corrected within 24 hours:

- Gas leaks
- Major plumbing problems
- Utilities not in service
- No running water
- Absence of a functioning toilet in a one bathroom unit
- Unstable roof/structure – such as collapsed ceiling, walls or floors
- Electrical problem which could result in shock or fire (i.e., exposed stripped wires)

When life-threatening deficiencies are identified, FH will immediately notify both parties by telephone, facsimile, or email. In the event FH is not physically able to visually confirm the repair has been corrected in 24-hours, the owner/resident can fax verification of repairs or restoration of services to FH. FH will make every effort to confirm with the client by phone that the emergency repairs have been completed. FH also will follow up to confirm the repair has been corrected by conducting a re-inspection by the next FH business day.

In those cases where there is leaking gas, 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 FH.

If the emergency/life-threatening deficiencies are not corrected within 24 hours and the owner is responsible, the Housing Assistance Payment will be abated beginning 24 hours from the initial inspection date. The HAP contract will cancel within 5 days from the re-inspection date, if the life-threatening deficiency is not corrected. During the 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. Refer to section 10.6.2 Termination of Contract when repairs are not corrected [24 CFR 982.404 Maintenance: Owner and family responsibility; PHA remedies. (a) Owner Obligation].

If the emergency repair item(s) are not corrected within 24 hours and it is an HQS breach which is a family obligation, FH will terminate assistance to the family, after providing an opportunity for an informal hearing. The owner's rent will not be abated for items which are the family's responsibility. The HAP Contract will terminate when assistance is terminated.

#### **10.4.2 NON-EMERGENCY FAIL DEFICIENCIES**

Non-emergency deficiencies that cause a unit to fail the inspection must be corrected. The family and owner will be notified of the failed items in writing.

If the necessary repairs have been completed prior to the next scheduled inspection, the family or owner may request an earlier inspection date. Requests for earlier repair dates will be reviewed and accommodated on a case-by-case basis.

#### **10.4.3 NON-EMERGENCY FAIL DEFICIENCIES NOT REQUIRING RE-INSPECTION**

In addition to the deficiencies listed in this section, FH will not require a re-inspection for any other minor, non-life-threatening deficiency (e.g., interior loose door knobs, re-grouting bathtub/sink areas) if cleared by proper HQS Self Repair Certification.

##### **HQS Self-Certification**

FH inspector will determine during the failed inspection if the unit/owner is eligible to submit an HQS Self Repair Certification. If eligible, this will be conveyed in the notice of failed inspection along with the list of items requiring repair. The owner will have 20 calendar days from the date of the failed inspection to complete and submit the form, and return to FH with appropriate documentation, i.e., receipts, pictures, etc., that the items have been corrected.

Failure to return the HQS Self Repair Certification by the due date will result in an automatic fail. The unit will be placed in abatement the 1st of the following month with the contract set to cancel at the end of that month if the HQS Self Repair Certification has not been received during the abatement period.

The following deficiencies will not require a re-inspection if cleared by proper owner certification.

- Inoperable stove element
- Missing or broken oven/refrigerator handle
- Missing or torn refrigerator/oven seal
- Inoperable bathroom exhaust fan
- Exterior Lighting
- Damaged (not missing) outlet covers
- Minor faucet and/or plumbing leaks
- Closet door off track

- Striker plate on door is missing or damaged
- Missing tack strips
- Frayed carpet – not torn
- Inoperable kitchen exhaust fan
- Kitchen and/or bathroom caulking – tub, shower and sinks
- Chips in kitchen and/or bathroom sinks
- Missing or dirty air filters
- Other non-life threatening deficiencies approved by Supervisor

The deficiencies must be cleared by a HQS Repair Certification signed by owner and participant. If the certification is not approved by a supervisor or HQS Enforcement Specialist, a re-inspection must be performed.

Appropriate third-party documentation must be supplied where appropriate, including but not limited to, the following: gas/utility receipt or invoice, repair invoices, pest control invoices, and photos.

## **10.5 CONSEQUENCES IF FAMILY IS RESPONSIBLE**

[24 CFR 982.404(b)]

The family is responsible for a breach of the HQS that is caused by any of the following:

- i. The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;
- ii. The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or
- iii. Any member of the household or a guest damages the dwelling unit or premises (damage beyond ordinary "wear and tear").

If non-emergency violations of HQS are determined to be the responsibility of the family, FH will require the family make any repair(s) within 30 calendar days. Extensions in these cases must be approved by supervisors. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, FH will initiate the termination of assistance process to offer the family an opportunity for an informal

hearing in accordance with 24 CPR 982.552.

The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination to FH within 10 business days of the inspection.

**Normal Wear and Tear**

"Normal wear and tear" is defined as items which could be charged against the tenant's security deposit under state law or court practice.

**10.6 CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)**

[24 CFR 982. 404, 982.453; 24 CFR 982.404]

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. FH may terminate the family's assistance on that basis.

The owner, owner's representative, and/or property Management Company must follow state and local housing codes; this includes all relevant code, including, but not limited to Site or Neighborhood Conditions (refer to section 10.3).

If owner-caused deficiencies are not corrected in the time period required by the Housing Authority, housing assistance payments will be abated and the contract may be terminated

The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination to FH within 10 business days of the inspection.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs, supplying a copy to FH, and the family's file will be noted.

**10.6.1 ABATEMENT**

If the re-inspection fails, the re-inspection appointment letter will include the effective date of the abatement if all owner-responsibility repairs are not completed by the date of the re-inspection. Abatement will begin the first of the following month.

FH will inspect abated units within 30 calendar days of the owner's notification that

the work has been completed. If the owner makes repairs prior to the first of the following month the abatement will be cancelled. If repairs are completed during the abatement period, payment will resume on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for FH's portion of rent that is abated.

If a request to re-inspect the property is received and the second re-inspection reveals that previous cited deficiencies were not repaired, FH may require the landlord to pay a re-inspection fee of \$24. An annual inflation factor will be applied and updated each year. Re-inspection fees will not be applied to deficiencies caused by the participant family, initial inspections, regularly scheduled inspections, and an instance in which the inspector was unable to gain access to the unit, or new deficiencies identified during a re-inspection. A landlord who is assessed a fee may not pass the fee on to a family. Re-inspection fees will not be applied to PHA-owned properties.

**10.6.2 TERMINATION OF CONTRACT**

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect. The tenant will be issued a voucher to search for another unit.

If repairs are completed before the effective termination date, the termination may be rescinded by FH if the tenant chooses to remain in the unit. Only two Housing Quality Standards inspections will be conducted after the termination notice is issued.

**10.8 LEAD-BASED PAINT AND HQS**

[24 CFR Part 35]

In order to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the HUD regulations of September 15, 1999 FH will adopt the following policies. For all pre1978 dwelling units with a child under six years of age, during the initial and annual inspections, FH will conduct a visual assessment of all painted surfaces in order to identify any deteriorated paint. If deteriorated paint is found, the owner will be required to perform paint stabilization. If the area to be stabilized is above “de minimis levels”, the owner will be required to use “safe work practices” as defined in 24 CFR Part 35.1350. For common terms used regarding lead hazard reduction see the end of this section.

**10.8.1 OWNER RESPONSIBILITIES**

The owner must notify FH and the family if aware of any known lead-based paint or lead-based paint hazards on the premises. This must occur prior to execution of the HAP contract.

The owner must perform paint stabilization when required by FH as a result of an HQS inspection.

Where a pre-1978 dwelling unit is occupied by a child of less than six years of age with an environmental intervention blood lead level (EIBLL), the owner will:

- be required to allow FH to conduct a risk assessment of the dwelling unit;
- be advised of the risk assessment inspection and given the opportunity to be present;
- upon receipt of a written report of the results of the above inspection, the owner must post notice to the tenant;
- if hazard conditions exist, the owner must comply with the scope of the work

within 30 days;

- once interim controls or abatement (corrective actions to reduce or eliminate LBP hazards) have been completed, the owner must contract with a Certified Lead Inspector (CLI) for a clearance examination;
- once cleared by the CLI, a copy of the Clearance Report must be provided by the owner to FH.

### **10.8.2 FH RESPONSIBILITIES**

FH staff will conduct a visual assessment at initial and periodic inspections. If during the inspection the family informs FH staff person there is a child under 6 years of age with an EIBLL, staff is to give a written report to a Housing Choice Voucher manager.

FH will attempt to obtain from the health department names and/or addresses of children with EIBLL's. Such information will be matched with FH address records of assisted families.

FH will report to the health department addresses of assisted units, unless the health department states it does not want such a report.

Lead-based paint inspection reports, with owner certifications, will be kept for a minimum of three years; indefinitely if chewable surfaces require testing.

As part of the briefing of applicant/participant families, FH will provide the household with a copy of the HUD brochure, "Protect Your Family from Lead in Your Home."

Where a pre-1978 dwelling unit is occupied by a child of less than six years of age with an environmental intervention blood lead level (EIBLL), and FH has received EIBLL notification by the health department or other medical health care provider, FH will:

- schedule a risk assessment within 15 days and give the owner an opportunity to be present;
- place the housing assistance payment on hold, if the written report reveals items which must be corrected;
- notify the owner in writing of the hold, and of the Lead Based Paint Hazard Reduction Procedures [letter], giving 30 days to correct all items;
- upon receipt of a clearance form per 24 CFR 35.1340, will release the housing assistance payment;
- notify the owner and family in writing of termination of the contract and

housing assistance payments if the required clearance form is not provided by the end of the 30-day correction period;

- if the owner does not obtain a clearance, or if the family decides not to stay in the unit, FH will process the family's request to transfer to another unit, if the family serves a proper notice of intent to vacate and meets the other requirements to transfer as described in Chapter 13 of this Plan.

The unit will be taken off the program and the property tracked so that it will not be allowed back on the program until such time as a clearance is supplied.

### 10.8.3 COMMON DEFINITIONS REGARDING LEAD-BASED PAINT

Below are some of the key terms used in this section. Other definitions are located in 24 CFR Part 35.7, 35.110.

**Abatement** means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards. Abatement includes:

- (1) The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and
- (2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

**Certified [Inspector]** means licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision, either by a State or Indian tribe with a lead-based paint certification program authorized by the Environmental Protection Agency (EPA), or by the EPA, in accordance with 40 CFR part 745, subparts L or Q.

**Clearance Examination** means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards, as defined in 24 CFR Part 35, exist in the dwelling unit or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples. Dust-lead standards for clearance are found in 24 CFR Part 35.1320.

**De Minimis Levels (aka De Minimis Rule)** means:

- 20 sq. ft. on exterior surfaces,



- 2 sq. ft. in any one interior room, or
- 10% of total surface area of an interior or exterior type component with a smaller surface area (e.g., window sills)

**Deteriorated Paint** means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

**Environmental Intervention Blood Lead Level (EIBLL)** means a confirmed concentration of lead in whole blood equal to or greater than 5 ug/dl (micrograms of lead per deciliter, see 24 CFR Part 35).

**Hazard Reduction** means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

**Interim Controls** means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

**Paint Stabilization** means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying new protective coating or paint.

**Risk Assessment** means: (1) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and (2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

**Visual Assessment** means looking for, as applicable: (1) Deteriorated paint; (2) Visible surface dust, debris, and residue as part of a risk assessment or clearance examination; or (3) The completion or failure of a hazard reduction measure.

## **CHAPTER 11: PAYMENT STANDARDS AND RENT REASONABLENESS, AND OWNER RENTS**

[24 CFR 982. 503, 982. 507, 982. 505]

### **11.1 INTRODUCTION**

It is FH's responsibility to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. FH will not approve the lease or execute a payments contract until it has determined that the unit meets the minimum HQS and that the rent is reasonable. FH will determine rent reasonableness at initial lease-up, before any increases in rent to owner and at other times as described in this section.

This chapter explains FH's procedures for determination of payment standards, rent-reasonableness, payments to owners, and rent adjustments.

### **11.2 SETTING THE PAYMENT STANDARDS FOR THE VOUCHER PROGRAM**

[24 CFR 982. 503(b)(1)]

HUD regulations allow FH to set payment standards at a level that is between 90 percent and 110 percent of the Fair Market Rent (FMR) for its jurisdiction. FH must set the payment standard at a level that is high enough to ensure that families are able to afford quality housing, ensure the payment standard does not inflate the rental market rates while balancing the need to provide assistance to as many families as possible.

FH sets its payment standards between 90% and 110% of the Fair Market Rents.

#### **Small Area FMRs (SAFMRs) PIH 2018-01**

The usage of SAFMRs is designed to promote lease up in opportunity areas with rental assistance at a level that makes higher rent areas more affordable to voucher participants.

FH may elect to either opt-in to the usage of Small Area FMR's or set Payment Standards using Small Area FMR's in select ZIP code areas. Should the usage of SAFMRs be utilized by FH, payment standard information will be made available in briefing materials. (Also see Ch. 22.27.3 payment standards applicable to project-based vouchers).

#### **11.2.1 MANUFACTURED HOME SPACE PAYMENT STANDARD**

The Payment Standard for a manufactured home space is to 40 % of the published FMR for a 2-bedroom unit.

## 11.2.2 EXCEPTION PAYMENT STANDARD

[PIH Notice 2010-11, PIH Notice 2016-05]

FH may approve an exception payment standard up to 120% of the Fair Market Rent to accommodate a disability.

FH must maintain documentation that shows:

- a rent reasonableness analysis was conducted in accordance with the HCV program regulations at 24 CFR 982.507;
- the family requested lease approval for the unit and requested an exception payment standard as a reasonable accommodation; and
- the unit has features that meet the needs of a family member with disabilities. For example, a unit may be suitable because of its physical features or for other reasons, such as having the requisite number of bedrooms, location on an accessible transit route, or proximity to accessible employment, education, services, or recreation.

Refer to PIH Notice 2010-11 for details on the process required to submit a request to HUD for an exception above 120% of the FMR.

EXAMPLE CALCULATION FOR EXCEPTION PAYMENT STANDARD CASES:

Fair Market Rent (FMR) for Unit Size	958
Family's monthly adjusted income	875
30% of monthly adjusted income	263
40% of monthly adjusted income	351
Difference between 30% and 40%	88
Contract Rent	950
Utility Allowance	205
Gross Rent (GR)	1,155
Adjusted Gross Rent (AGR): GR – (40% - 30%)	1,067
Percentage of FMR (AGR / FMR)	112%

### 11.3 MAXIMUM INITIAL RENT BURDEN

Any new admission or any family who moves may not pay more than 40% of adjusted income toward the initial rent and utilities for the unit if the gross rent for the unit exceeds the applicable payment standard for the family.

EXAMPLE: Maximum Initial Rent Burden

Tenant Rent Exceeds 40% of Adjusted Monthly Income

Family's monthly adjusted income	\$600
TTP @ 30%	\$180
40% adjusted income	\$240
Payment Standard	\$500
Minus TTP	- 180
Maximum subsidy	\$320
Unit gross rent (above payment standard)	\$575
Minus maximum subsidy	-320
Family share	\$255

FH cannot approve the unit because the family would be required to pay more than 40% of its monthly adjusted income.

### 11.4 ADJUSTMENTS TO PAYMENT STANDARD

FH will review Payment Standards at least annually. A quarterly review will be done if any of the following occurs:

- 25% or more Voucher holders cannot locate housing within the term of the Voucher
- 40% or more of families of a particular unit size pay more than 30% of adjusted income as their family share
- based on a review of its rent reasonableness data base and vacancy rate data, there is an insufficient supply of vacant units below the payment standard in areas without minority concentration and/or poverty-impacted

areas.

## **11.5 PAYMENT STANDARD FOR A FAMILY**

The payment standard is used to calculate the monthly housing assistance payment

(HAP) for a family under the Housing Choice Voucher program. The HAP, or subsidy, is arrived at by taking the lower of:

- Payment standard minus the Total Tenant Payment (TTP) or
- Gross rent for the unit minus the TTP.

Under the HCV program, if the gross rent for the unit is lower than the payment standard, the family will pay the full TTP. If the gross rent for the unit is higher than the payment standard, the family will pay the TTP plus the amount by which the gross rent exceeds the payment standard.

The payment standard amount for a family is the lower of:

- Payment standard amount for the family unit size, or
- Payment standard amount for the size of the unit leased by the family

If the unit is located in an exception area, FH must use the appropriate payment standard amount for the exception area.

The payment standard in place on the effective date of the HAP contract remains in place for the duration of the contract term unless FH increases or decreases its payment standard.

### **11.5.1 WHEN THE PAYMENT STANDARD INCREASES**

If a payment standard is increased, the higher payment standard is used in calculating the HAP at the time of the family's first regular (annual) reexamination. Families requiring or requesting interim reexaminations will *not* have their HAP payments calculated using the higher payment standard until their next annual reexamination.

### **11.5.2 WHEN THE PAYMENT STANDARD DECREASES**

The Housing Opportunity Through Modernization Act (HOTMA) of 2016 amended the voucher program regulations at 24 CFR 982.505(c)(3) to reflect the changes made by HOTMA. FH will use the following policy for applying a decrease in the payment standard amount to families under HAP contract on the effective date of the decrease in the payment standard amount.

**Hold Harmless** – no reduction in subsidy. FH will continue to use the existing

higher payment standard for the family's subsidy calculation for as long as the family continues to receive the voucher assistance in that unit.

If a family's voucher size is reduced, any lowered payment standard will be applied at the first regular (annual) reexamination following the subsidy standard change. This rule applies whether the family's voucher size was reduced due to a change in family composition or due to the PHA changing its subsidy standards (24 CFR 982.505 (c)(3)).

[24 CFR 982.507(a)(2)(ii); 983.302(a)(2); 983.303(b)(1); PIH 2018-01]

### **11.5.3 CHANGE IN THE FAMILY UNIT SIZE**

Irrespective of any increase or decrease in the payment standard amount, 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.

### **11.6 RENT REASONABLENESS DETERMINATIONS**

[24 CFR 982.503, 982.507, PIH 2003-12]

FH is responsible for ensuring that the rents charged by owners are reasonable based upon objective comparables in the rental market.

The Housing Authority will complete a rent-reasonable determination prior to entering in to a new contract with the owner. The Housing Authority will also complete a rent-reasonableness determination upon request by the owner to adjust the contract rent. The Housing Authority will ensure that the requested rent:

1. Does not exceed rents currently charged on new leases by the same owner for an equivalent assisted or unassisted unit in the same building or complex, and
2. Is reasonable in relation to rents currently charged by other owners for comparable units in the unassisted market.

The Housing Authority must re-determine rent reasonableness if directed by HUD and based on a need identified by the Housing Authority's auditing system. The Housing Authority may elect to re-determine rent reasonableness at any other time.

At all times during the assisted tenancy, the rent paid to the owner may not exceed

the reasonable rent as determined by the Housing Authority.

If requested, the owner must give the Housing Authority information on rents charged by the owner for other units in the complex or elsewhere.

The data collected is used in a rent comparable system. This system calculates a variety of criteria to provide rent comparable information, including:

1. Size
2. Location
3. Quality
4. Amenities
5. Age of unit
6. Unit type
7. Utilities
8. Housing Services
9. Maintenance

The rent reasonableness database will retrieve at least 3 open market comparables to be used for rent determination. All comparables will be based on the rent that the unit would command if leased in the current rental market. When 3 open market comparables are not available, the reason will be clearly documented.

#### **11.6.1 MAKING AND DOCUMENTING THE RENT REASONABLENESS DETERMINATION**

[PIH 2003-12]

Rent reasonableness data will be used to make a side-by-side comparison of the proposed unit against three open market rental units. Up to 9 comparability factors may be reviewed to ensure consistency. While not all factors will be identical they should be sufficiently similar to demonstrate they are comparable units.

PIH Notice 2003-12 clarifies that housing authorities have some leeway in the use of these 9 comparability factors. It clarifies that “each PHA should have appropriate and practical procedures for determining rental values in the local market.” Written procedures or specialized rent reasonableness software will be used in order for the rent reasonableness documentation to reflect the selected units do in fact represent:

- similar units overall;

- similar units in the same general location; and
- are similar in terms of the overall quality of housing services provided.

The user should negotiate within the rent comparable range determined by available comparables. When rent is negotiated above the average rent, the file will be documented as to the reason rent was negotiated above the average.

If the owner or property manager requests a rent higher than the average rate and supplies information that the rent being requested is rent-reasonable the user may negotiate higher than the average rent. Rents negotiated above the average rent must be verified and clearly documented.

If data retrieved is insufficient to meet 3 open market comparables the Housing Authority may exercise one of the following methods for making rent reasonableness determinations, and will document why an alternate method of documenting was needed. Alternate methods include:

- Owner will be asked to supply additional rental amounts for comparable unassisted units.
- When there are no comparable units of like bedroom size, FH will use a multiplier of 15% per bedroom size to estimate the rental value of the larger-size bedroom unit.
- Comparables may be used from outside areas which are considered comparable to the proposed unit.

## **11.7 OWNER PAYMENT IN THE VOUCHER PROGRAM**

[24 CFR 982. 503]

The maximum subsidy for each family is determined by the Payment Standard for the Voucher size issued to the family, less 30% of the family's Monthly Adjusted Income. The actual subsidy level could be less if the family is required to pay the Minimum Total Tenant Payment (10% of the family's Monthly Income).

The Voucher size issued to the family is based on FH's Subsidy Standards. The Payment Standard for the family is based on the lesser of the Payment Standard for the Voucher size issued and the Payment Standard for the unit selected.

The Housing Assistance Payment to the owner is the lesser of the subsidy described above or the rent charged by the owner.

### **11.7.1 SUBSIDY CALCULATION**

Under the Housing Choice Voucher Program, the HAP subsidy is *the lower of*:

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- The Payment Standard minus the Total Tenant Payment, OR
- The gross rent (rent to the owner plus utility allowance) minus the Total Tenant Payment

Total Tenant Payment is the highest of:

- Thirty (30) percent of the monthly adjusted income
- Ten (10) percent of monthly gross income
- Welfare rent (in as paid states) or
- FH minimum rent (see Chapter 6)

A family renting a unit above the Payment Standard also pays the highest of the amounts above, plus the amount by which the gross rent for the unit exceeds the Payment Standard. An example of the subsidy calculation is as follows:

EXAMPLE: Subsidy Calculation:

Gross Rent is lower than Payment Standard

\$575	Payment Standard
-150	TTP
\$425	Maximum Subsidy
\$570	Gross Rent
-150	TTP
\$420	HAP Subsidy

## 11.8 MAKING PAYMENTS TO OWNERS

[24 CFR 982.451, 982.311(d)(1)]

Once the HAP Contract is executed, FH begins processing payments to the landlord. The effective date and the amount of FH payment is communicated in writing to the family and owner. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Payments are disbursed by Accounting to the owner each month as described below.

The owner is allowed to keep the housing assistance payment for the month when the family moves out of the unit, except when a participant moves from one unit to another, owned by the same owner; double subsidy for the partial days of the month is not allowed.

Payments will only be disbursed on the first of the month and at mid-month through

Electronic Funds Transfer (EFT) process. Exceptions may be made with the approval of a Manager or above in cases of hardship to distribute payments any other time.

Payments that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check. Owners will be advised there may be a \$10 processing fee for re-issuance of a HAP payment.

## **11.9 RENT ADJUSTMENTS/MODIFICATIONS**

[24 CFR 982.507 and 982.308 (g)]

A rent adjustment is a request to modify the existing contract rent. The request for a rent adjustment must be completed by the owner/agent. The owner/agent can request a rent adjustment to increase or decrease the contract rent after the initial lease term or after one year has lapsed from the most recent effective date of the HAP contract. Owner/agent must provide a copy of the written 60-day notice to increase rent to both the family and FH. The following steps must take place before the request can be approved:

- All requests must be submitted to the family and FH at least 60 days prior to the effective date of the rent adjustment.
- The unit must have passed the Housing Quality Standard inspection within the last twelve months.
- If there are any other changes to the lease agreement such as who is responsible for utilities/appliances or the term of the lease, these changes must be in writing. The owner must immediately provide FH with a copy of these changes. FH will execute a new HAP contract reflecting these changes.
- The amount requested cannot exceed rents currently charged by the owner for a comparable unassisted unit in the same building or complex (on the premises), and
- The amount requested must be reasonable in relation to rents currently charged by other owners for comparable units in the unassisted market.
- Family must give consent of their acceptance of proposed rent increase by owner.

### **11.9.1 RENT ADJUSTMENT DETERMINATION**

All rent adjustment determinations will be based on the rent reasonableness determination method previously described in this chapter. If the rent adjustment is approved, the change in rent does not affect the automatic renewal of the lease

and does not require a new lease/contract or an executed amendment. A notice of rent adjustment letter will be sent to the owner and the family.

If FH is not able to accept the amount of the owner's proposed increase because it exceeds FH's rent reasonableness determination for a comparable unassisted unit, FH will contact the owner to negotiate rent. FH may inspect the unit for the purpose of determining rent reasonableness. Once the amount has been negotiated and approved, a notice of rent adjustment letter will be sent to the owner and the family.

If, during the negotiation process, FH and the owner cannot reach an agreement on the rent adjustment, FH will send a letter to the owner denying the request for rent adjustment.

### **11.9.2 SPECIAL ADJUSTMENTS**

[24 CFR 982. 520]

An owner may request a special adjustment based on substantial and general increases in real property such as: taxes, special government assessments, or costs of utilities. The rent requested must be found to be reasonable and must be approved by HUD.

## CHAPTER 12: REEXAMINATIONS

### 12.1 INTRODUCTION

FH is required to reexamine each family's income and composition at least every twelve months, 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 FH policies concerning reexaminations are presented in three parts:

**Section One: Annual Reexaminations.** This part discusses the process for conducting annual reexaminations. FH may perform reexaminations for households on fixed incomes on a triennial basis.

**Section Two: Interim Reexaminations.** This part details the requirements for families to report changes in family income and composition between annual reexaminations.

**Section Three: Outcomes from Recertifications.** This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

### SECTION ONE: ANNUAL REEXAMINATIONS

[24 CFR 982.516]

### 12.2 OVERVIEW

FH must conduct a reexamination of family income and composition at least every twelve months. 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.

### 12.3 STREAMLINED ANNUAL REEXAMINATIONS

[24 CFR 982.516(b), PIH 2016-05]

HUD permits FH 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 FH may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. FH may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, FH 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.

## **12.4 SCHEDULING ANNUAL REEXAMINATIONS**

FH 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.

FH will begin the annual reexamination process up to 120 days in advance of its scheduled effective date. Generally, FH 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).

### **12.4.1 NOTIFICATION OF AND PARTICIPATION IN THE ANNUAL REEXAMINATION PROCESS**

FH is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is described below.

Families generally are required to complete the annual reexamination process through the online portal or by mail, as requested.

Notification of the annual reexamination process will be sent by first-class mail and/or email. If requested, notification will contain the certification packet for completion and must be returned by the specified due date.

If the family is unable to complete the online certification or return the packet within the deadline, the family should contact FH in advance of the due date to request an extension. If a family does not provide required information by the deadline,

including any extension granted, steps for non-compliance will be taken.

If the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 15) will be sent to the family's address of record.

## **12.5 CONDUCTING ANNUAL REEXAMINATION**

As part of the annual reexamination process, families are required to provide updated information to FH regarding the family's income, expenses, and composition [24 CFR 982.551(b)]. (For policy regarding how the family should request to add new family members to their family composition, see *Changes in Family and Household Composition* in this Chapter).

### **12.5.1 ANNUAL REEXAMINATION**

The family will be notified by email and/or mail up to 120 calendar days in advance of the anniversary date of the requirement to complete their annual reexamination process. If requested as an accommodation by a person with disabilities, FH will provide the notice in an accessible format; home visits may also be requested for this purpose so FH can assist the family in completing their annual reexamination requirement. FH will also mail and/or email the notice to a third party, if requested as a reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Families will be asked to upload to online portal or mail in all required information (as described in the reexamination notice) with their completed reexamination. The required information will include the Annual Re-examination Questionnaire, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, assets, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time their Annual Re-examination is returned to FH, must be provided within 10 calendar days of the written request for the incomplete information which FH will mail and/or email to the family. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information requested within the required time frame, including any extensions, the family will be sent a notice of FH's intent to terminate the family's assistance; (see Chapter 15).

### **12.5.2 CONDUCTING FACE-TO-FACE INTERVIEWS**

While most reexaminations are conducted by mail/online, face-to-face or virtual

interviews may be conducted at any time at FH discretion, or if needed by a person with disabilities as a reasonable accommodation.

When using this method FH will normally require the head of household and spouse to attend the interview. If the head of household is unable to attend the interview, any adult member who is available may attend the appointments unless a specific member is identified on the appointment notification.

### **12.5.3 DOCUMENTS REQUIRED FROM THE FAMILY**

In the notification letter and/or email to the family, FH will include instructions for the family to complete the Annual Reexamination and provide the following documents:

1. Documentation of income for all family members
2. Documentation of all assets (at least every 3 years)
3. Documentation of any deductions/allowances
4. Questionnaire packet completed by the head-of-household
5. Certified statement of family obligations
6. Social Security and/or Immigration cards and birth certificates for any new family members
7. Authorization for the Release of Information (HUD-9886)
8. FH Consent Form

At annual reexamination, FH may use the same procedures for obtaining and verifying information that were used at admission; (see Chapter 7).

### **12.5.4 FAILURE TO RESPOND TO NOTIFICATION OF REQUIREMENT FOR ANNUAL REEXAMINATION**

After receiving the reexamination notification, the family is required to complete and submit the annual reexamination with all requested documents on or before the due date listed (plus any extensions) in the reexamination notification. Failure to meet the deadline is grounds for termination of assistance. For more details on missed deadlines, and for exceptions to the policy which may be made by a supervisor if the family is able to document an emergency situation which requires an extension on the time needed to comply with the annual reexamination requirement, see Chapter 15.

### **12.5.5 CRIMINAL BACKGROUND CHECKS**

Criminal background checks will be conducted for all new adults (age 18 and

above), live-in aides, household members being added to a currently assisted household, and all incoming families porting into FH's jurisdiction.

As part of the annual reexamination process criminal backgrounds may be conducted for adults (age 18 and over).



## 12.6 DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS

[24 CFR 982.552(b)(5)]

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

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. During the annual reexamination process, FH will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 (see Chapter 4) by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in the criteria for admission in Chapter 4, the parent's income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Chapter 15.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), FH will process a reexamination in accordance with the policies in this chapter.

## 12.7 ANNUAL RECERTIFICATION EFFECTIVE DATES

FH must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

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 FH causes a delay in processing the annual reexamination, increases in the family share of the rent will take effect on the first of the month following the end of a 30-day notice period.

In general, a decrease in family adjusted income that results in a decrease in tenants portion from an annual reexamination will take effect on the first day of the month following the date the change was reported; e.g., family reports a decrease of income in the reexamination packet on 01/15/18; regardless of when the verification comes (see exceptions below) FH will make the new family portion effective on 02/01/18. Also, the family's reexamination anniversary date will change to 02/01/19, which is the new effective date plus one year.

- If the family causes a delay (or if the decrease in tenant portion is not due to a decrease in income) in processing the annual reexamination, decreases in the family share of the rent will be applied effective the annual anniversary date, or from the 1st day of the month following the date all required documentation was submitted by the family, whichever is later.
- Any delay in processing of the annual reexamination caused by FH will be made effective the first of the month following the date the change was reported in writing.

#### **12.7.1 DETERMINING WHETHER DELAY WAS CAUSED BY THE FAMILY**

If the family does not provide requested documentation by the deadline (plus extensions) the family will be considered cause of delay. Delays in reexamination processing are considered to be caused by FH if FH fails to act promptly in requesting or following up on required verifications.

## **SECTION TWO: INTERIM REEXAMINATIONS**

*[24 CFR 982.516]*

### **12.8 OVERVIEW**

Family circumstances may change throughout the period between annual reexaminations. HUD and FH policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances FH must process interim reexaminations to reflect those changes. HUD regulations also permit FH 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.

FH must attempt to complete the interim within 30 days from the receipt of the family's written request and all required documents.

This part includes HUD and FH policies describing the changes families are required to report and how FH will process both FH- and family-initiated interim reexaminations.

### **12.8.1 UPDATE VOUCHER SIZE**

Changes in voucher size and payment standards do not occur during the interim certification process unless an error in the voucher size/payment standard was made at the last action (annual reexamination or admission to the program). If a family member is added or removed, the voucher/payment standard change is made at the time of the annual certification.

### **12.9 CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

HUD requires FH adopt policies prescribing when and under what conditions the family must report changes in family composition; and when FH will conduct an interim reexamination.

FH will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations. In general, all changes to the family and household composition must be reported to FH within 30 calendar days. Reporting requirements are described in further detail in the following sections.

#### **12.9.1 NEW FAMILY MEMBERS NOT REQUIRING APPROVAL**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require FH approval. However, the family is required to promptly notify FH of the addition [24 CFR 982.551(h)(2)]. The family must inform FH of the birth, adoption or court-awarded custody of a child within 30 calendar days or the next day the agency is open after the 30<sup>th</sup> calendar day.

#### **12.9.2 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 FH approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide, foster child, or foster adult) [24 CFR 982.551(h)(4)].

When any new family member is being added, FH will conduct an interim reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

All changes in family composition must be approved by FH and the landlord /

property owner prior to the individual moving in the unit. All changes in family composition (not requiring prior approval by FH) must be reported to FH within 30 calendar days or the next day the agency is open after the 30<sup>th</sup> calendar day.

FH will only approve an addition of a minor to the household composition resulting from birth, adoption, court-awarded custody, or a minor who is a member of the nuclear family who has been living elsewhere.

FH will only approve the addition of an adult\* for the following reasons:

- Due to marriage or marital-type relationship, or
- An adult child due to recent discharge from the military, or
- An adult child or a parent due to a disability; or
- The biological parent of a minor child.

\*Except for additions of adults as mentioned above, additions of other adults to the household may be approved no more than once in a twelve-month period from the last recertification effective date.

FH will allow for a one time exemption for single adult children previously removed from a household to be placed back into the household. In order to add adult children the individual must meet the following criteria, and where applicable, outlined in Chapter 4: Eligibility for admission and verified as outlined in Chapter 7.9.3:

- Been removed from the household one calendar year or less
- Be between the ages of 18-26

In order to add the adult the individual must meet the following criteria, where applicable, outlined in Chapter 4: Eligibility for admission and verified as outlined in Chapter 7.9.3.

Chapter 4 reference sections:

- 4.5 Verification of Need for a Live-in Aide
- 4.6 Approval or Disapproval of a Particular Person as Live-in Aide
- 4.12 Citizenship/Eligibility Immigration Status
- 4.13 Family Consent to Release of Information
- 4.14 Restriction on Eligibility of Students
- 4.18 Mandatory Denial of Assistance
- 4.19 Additional Prohibitions

#### 4.20 Screening for Admission

##### 4.20.2 Factors Relevant to FH Criminal Background & Eviction Screening

#### 4.21 Consideration of Circumstances

If FH determines an individual meets FH's eligibility criteria as defined in Chapter 4, and if the owner provides written permission to add the new family member to the lease, FH 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 FH determines that an individual does not meet FH's eligibility criteria as defined in Chapter 4, FH 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.

### **12.9.3 DEPARTURE OF A FAMILY OR HOUSEHOLD MEMBER**

Families must promptly notify FH if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], FH also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

If a family or household member, live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform FH within 30 calendar days or the next day the agency is open after the 30<sup>th</sup> calendar day.

Failure to report to FH within 30 calendar days the departure of a family or household member is a violation of the family's obligations under the HCV program and may be grounds for termination of assistance. For actions FH will take when non-reporting issues occur, see Chapter 24, *Criteria for Investigation of Suspected Abuse and Fraud*.

### **12.10 CHANGES AFFECTING INCOME OR EXPENSES**

The family is required to report all changes of income to FH. The sections below will outline when FH will conduct an interim reexaminations based on the reported changes.

FH will not conduct an interim reexamination for increases in the family income, unless

- the family requests FH to do so,
- there is also a change in the family composition, or
- if a family who had zero income obtains a source of income; in this case

their rent will be adjusted to reflect the new income.

### **12.10.1 REQUIRED REPORTING**

FH requires that the family report all changes in income to FH within 30 calendar days of the change; although a rent increase will be deferred until the annual reexamination unless the family requests that the increase be processed.

### **12.10.2 FH-INITIATED INTERIM REEXAMINATIONS**

When the family reports zero income, FH will conduct an interim reexamination (or annual if within 120 days of the annual reexamination) every 120 days, as long as a zero-income family reports no income.

When the rent calculation results in a utility reimbursement payment to the family, FH may conduct an interim reexamination every six months.

### **12.10.3 FAMILY-INITIATED INTERIM REEXAMINATIONS**

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)].

The family may request an interim reexamination any time and FH must process the request if the family reports a change that will result in a reduced family income.

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, *Welfare Benefits*.

If a family reports a change that it was not required to report (e.g., an increase in an expense which would result in reducing the family's annual adjusted income; see Chapter 6 for a list of allowable expenses) and the change would result in a decrease in the family share of rent, FH will conduct an interim reexamination.

## **12.11 PROCESSING THE INTERIM REEXAMINATION**

### **12.11.1 METHOD OF REPORTING**

The family must notify FH of all changes in income or household composition in writing or by utilizing the online portal.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if FH determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, FH will determine the documentation the

family will be required to submit. The family must submit any required information or documents within 30 calendar days or the next day the agency is open after the 30<sup>th</sup> calendar day of receiving a request from FH. This time frame may be extended for good cause with FH approval. FH will accept required documentation by email, mail, fax, or in person, with the exception of identity documents (i.e.: ID, social security cards, birth certificates); original and copy must be provided in person.

### **12.11.2 EFFECTIVE DATES**

FH 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 Guidebook, p. 12-10].

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 the family share of the rent is to *decrease*:

- The decrease will be effective on the first day of the month following the date the change was reported.

If an interim is within 120 days of the reexamination anniversary date, FH will do a full reexamination and change the anniversary date to match the new effective date plus one year.

## **SECTION THREE: OUTCOMES FROM RECERTIFICATIONS RENT CHANGE NOTICES AND HANDLING DISCREPANCIES**

### **12.12 NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

FH 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:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent

The family must be given an opportunity for an informal hearing regarding FH'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 19). The notice also will state the procedures for requesting an informal hearing.

### **12.13 DISCREPANCIES**

During an annual or interim reexamination, FH may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. When errors resulting in the overpayment or



underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 18.

## **CHAPTER 13: ALLOWABLE MOVES AND PORTABILITY**

[24 CFR 982.314; 982.353 (b); 982.355; PIH Notice 2011-3]

### **13.1 INTRODUCTION**

HUD regulations permit families to move with continued assistance to another unit within FH's jurisdiction, or to a unit outside of FH's jurisdiction within the USA and territories under Portability procedures. The regulations also allow FH the discretion to develop policies which define any limitations or restrictions on moves. This chapter is separated into three sections which will explain the procedures for moves 1) policies relating to transfers within FH's jurisdiction, 2) policies relating to transfers outside FH's jurisdiction, and 3) restrictions on portability.

#### **Section One: Policies Relating to Allowable Moves Within FH's Jurisdiction**

This section will explain the policies that FH must follow when a family is requesting to move their assistance from one unit to another within the jurisdiction, and any restrictions that apply.

#### **Section Two: Policies Relating to Allowable Moves Outside FH's Jurisdiction (Portability)**

This section will explain the policies that FH must follow when a family is requesting to move outside of the jurisdiction which is referred to as Portability.

#### **Section Three: Restrictions on Portability**

This section covers the policies regarding restrictions which apply when a family requests to move outside FH's jurisdiction.

### **SECTION ONE: POLICIES RELATING TO TRANSFERS WITHIN FH'S JURISDICTION**

This section pertains to any request which does not involve portability. For information about portability see Sections Two and Three of this chapter.

### **13.2 ALLOWABLE MOVES**

A family may move to a new unit under the following conditions;

1. FH has terminated the HAP contract for owner breach.
2. The lease was terminated by mutual agreement of the owner and the family. For example, if a decrease in the voucher/subsidy size creates a hardship for the participant, the participant and landlord are allowed to enter into a Mutual Agreement so that the participant can find a more affordable unit.

3. The owner has given the family a notice to vacate, or has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
4. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner) for owner breach or otherwise.
5. The family has given proper notice of lease termination, and the move is needed to protect a victim who is covered under the Violence Against Women Act of 2005. See Section 7.12, Verification Under VAWA ACT.

### **13.3 RESTRICTIONS ON MOVES**

[24 CFR 982.314(e), 982.552(c)(1)(vii); 982.54 (d) (19)]

FH will deny permission to move if:

- The family owes FH money.

A family requesting to move must:

- have a current recertification and
- a current inspection (provided there is no breach of HQS by the family, which has not been corrected).

#### **13.3.1 MOVES WITHIN THE FIRST YEAR OF THE HAP CONTRACT**

Families will not be permitted to move until they have been under contract at least a year according to the effective date of their HAP contract.

The supervisor may make exceptions to these restrictions if there is proper supporting documentation from the client. The following are examples of when a mutual agreement would be accepted before the end of the first year:

1. To protect the health and or safety of a family member (e.g. domestic violence, witness protection programs, emergency fail HQS items);
2. To address an emergency situation over which the family or owner has no control (e.g. owner is going through foreclosure);
3. To allow a move, if needed as a reasonable accommodation, for a family who is a person with disabilities; and
4. To accommodate a change in family circumstances which requires a move to a distant area (e.g. new employment or school attendance in a distant city)

FH will deny permission to move if there is insufficient funding for continued assistance.

## **13.4 PROCEDURE FOR MOVES**

### **13.4.1 ISSUANCE OF VOUCHER**

FH will issue the voucher when the verifications are current. Refer to Section 8.4, Issuance of Vouchers, if verifications are over 60 days old at time voucher would be issued.

### **13.4.2 RESCINDING OF VACATE NOTICE**

If the family does not locate a new unit, they may remain in the current unit so long as the owner and family submit a rescinding letter.

### **13.4.3 NOTICE REQUIREMENTS**

Briefing sessions emphasize the family's responsibility to give the owner and FH proper written notice of any intent to move.

The family must give the owner the required number of day's written notice of intent to vacate specified in the lease and must give a copy to FH simultaneously.

### **13.4.4 TIME OF CONTRACT CHANGE**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves. The landlord is allowed to retain the Housing Assistance Payment (HAP) for the month in which the HAP contract was terminated.

## **SECTION TWO: PORTABILITY**

[24 CFR 982.355, PIH Notice 2016-09]

Portability applies to families moving out of (Outgoing Portability) or into (Incoming Portability) a housing authority's jurisdiction within the United States and its territories. Under portability, families are eligible to receive assistance to lease a unit outside of the initial housing authority's jurisdiction. The unit may be located anywhere in the USA in the jurisdiction of a housing authority with a tenant-based assistance program.

### **13.5 OUTGOING PORTABILITY**

[24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a voucher-holder or participant family has the right to receive tenant-based voucher assistance to lease a unit outside FH's jurisdiction, anywhere in the United States, in the jurisdiction of a Public Housing Authority (PHA) with a tenant-based program.

When a family requests to move to an area outside of FH's jurisdiction, they are exercising their right to outgoing portability. In this instance FH acts as the Initial housing authority and the following information is a list of the responsibilities FH is responsible for.

For restrictions on portability, refer to Chapter 13.7.

#### **13.5.1 RESPONSIBILITY OF THE FAMILY**

The family must consider and verify whether they are eligible before taking any action to move.

- Provide a valid vacate notice to FH and the owner
- Provide FH the specific information of the Receiving PHA
- Supply the name, address, phone number and portability contact name for the housing authority which has jurisdiction in the area where they want to move
- The family is to provide their current contact information.
- If there is more than one PHA in the area, and depending on the circumstances; the family and/or PHA will choose the receiving PHA.
- Be in compliance with all of their family obligations
- The family will be required to meet with FH portability specialist to complete the portability request

#### **13.5.2 RESPONSIBILITY OF THE INITIAL PHA**

- The PHA will brief the family on the process that must take place to exercise portability.
- In cases where the family is not currently on the program, the PHA will determine whether the family is income-eligible in the area where the family wants to lease a unit. If the family is not income eligible in the area to which the family wishes to move, the PHA must inform the family they may not move to the area in question and receive voucher assistance.
- The PHA must contact the Receiving PHA via e-mail or other confirmed delivery method to determine whether the Receiving PHA will bill or absorb the family's voucher. Based on the Receiving PHA's response, the Initial PHA must determine whether they will approve or deny the portability request. See Chapter 13.7, Restrictions on Portability.
- Once request is approved, the Initial PHA issues the family a voucher and must contact the Receiving PHA on the family's behalf.
- The Initial PHA must advise the family how to contact and request assistance from the receiving PHA.
- Advise the family that they must promptly contact the Receiving PHA and comply with Receiving PHA's procedures for incoming portable families.
- Promptly notify the Receiving PHA to expect the family.
- Pay the Receiving PHA 80% of the Initial PHA's ongoing administrative fee within 30 calendar days of receipt of PART II of the Form HUD-52665.
- Reimburse the Receiving PHA for the HAP payment made on behalf of the family.
- Make payment to the Receiving PHA per the Portability Billing Form.

### **13.5.3 RESPONSIBILITY FOR SENDING DOCUMENTS**

The Initial PHA must also send to the Receiving PHA the following documents:

- The current HUD-50058
- Copies of the income verification for the current HUD-50058
- Copies of the citizen/eligible immigrant verification
- A copy of the family's voucher
- The Portability Form, HUD-52665, with Part I completed
- Family Self-Sufficiency information if the family is participating in FSS

### **13.6 INCOMING PORTABILITY**

[24 CFR 982.355, PIH Notice 2016-09]

When a family exercises their rights under portability to move into a new jurisdiction, the new housing authority is called the Receiving PHA. Below is a list of the responsibilities of the Receiving PHA in terms of assisting the family.

### **13.6.1 RESPONSIBILITIES OF THE RECEIVING PHA**

These are the responsibilities of the Receiving PHA:

- The PHA must promptly respond by e-mail or other confirmed delivery method to the Initial PHA's inquiry to determine if the family's voucher will be billed or absorbed. The decision to bill or absorbed cannot be reversed at a later date.
- The Receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the Initial HA tenant-based program.
- The Receiving PHA's selection preferences do not apply.
- The Receiving PHA's waiting list is not used.
- The Receiving PHA may opt to screen or conduct background checks using the Receiving PHA's screening criteria; the Receiving PHA must not delay issuing of voucher or otherwise delay approval of a unit until those processes are completed.
- The Receiving PHA is expected to issue a voucher to the family within two weeks of receiving the HUD-52665 and supporting documentation, provided the information is in order, the family has contacted the Receiving PHA, and the family complies with the Receiving PHA's procedures.
- The voucher cannot expire 30 calendar days before the original expiration date of the Initial HA voucher. The Receiving PHA decides whether to extend or suspend.
- Determine the family unit size based on the subsidy standards of the Receiving PHA.
- Promptly notify the Initial HA if the family fails to submit a request for tenancy approval within the term of the voucher.
- Promptly notify the Initial HA if the family has leased an eligible unit under the program.

The family must submit a request for approval of tenancy to the Receiving PHA during the term of the Receiving PHA voucher.

To provide tenant-based assistance for portable families, the Receiving PHA must perform all HA program functions such as reexaminations of family income and composition.

At any time the Initial HA or the Receiving PHA may make a determination to deny or terminate assistance to the family in accordance with program regulations.

The Receiving PHA may deny or terminate assistance for action or inaction of the family.

### **13.6.2 WHEN THE RECEIVING PHA CHOOSES TO BILL THE INITIAL PHA**

If a HAP contract is executed, the Receiving PHA must bill the Initial PHA within 10 days of the HAP execution, but no later than 60 days following the expiration of the family voucher issued by the Initial PHA.

- The Portability Form, HUD-52665, with the applicable sections of Part IIB completed.
- A current HUD-50058 if item 3 or 4 are completed on Part II-B of the Portability Billing Form.
- Supply the name of PHA staff designated for inquiries on eligibility and billing.
- The Administrative Fee schedule for billing purposes.
- The Receiving PHA tax ID number.

### **13.6.3 ABSORPTION**

FH will absorb all port-in families into its own voucher program if there is funding available. If funding is unavailable at time of portability, FH may absorb a family into its own program later once the HAP contract has been executed. After absorption, the family is assisted with funds available under FH's voucher program.

### **13.6.4 INCOME AND TTP OF INCOMING PORTABLES**

As Receiving PHA, FH will not conduct a recertification interview unless there has been a change in the family's circumstances. If the family's income exceeds the income limit of FH, the family will not be denied assistance unless the family is an applicant and over the Very-Low Income Limit. If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in FH's jurisdiction, FH will refuse to enter into a contract on behalf of the family at \$0 assistance.

### **13.6.5 REQUESTS FOR TENANCY APPROVAL**

A briefing will be mandatory for all portability families.

When the Family submits a Request for Tenancy Approval, it will be processed using the Receiving PHA's policies. If the Family does not submit a Request for Tenancy Approval or does not execute a lease, the Initial HA will be notified within 60 calendar days by the Receiving PHA. If the Family leases up successfully, the



Receiving PHA will notify the Initial HA within 10 working days, but no later than 60 days following the expiration date of the family voucher issued by the Initial PHA, and the billing process will commence. If the Receiving PHA denies assistance to the family, FH will notify the Initial HA within 60 calendar days and the family will be offered a review or hearing. The Receiving PHA will notify the Family of its responsibility to contact the Initial HA if the family wishes to move outside FH's jurisdiction under continued portability.

### **13.6.6 PAYMENT TO THE RECEIVING PHA**

When billed, the Initial HA will reimburse the Receiving PHA for 100% of the Housing Assistance Payment, 100% of the Special Claims paid on HAP contracts effective prior to 10/2/95, and 80% of the Administrative Fee (at the Initial HA's rate).

## **SECTION THREE: RESTRICTIONS ON PORTABILITY**

[24 CFR 982.314, 982.552; 982.54 (d) (19)]

With regard to a request to move with continued assistance, participant families will not be permitted to move until they have been under contract at least a year according to the effective date of their HAP contract. Families will not be permitted to move outside FH's jurisdiction under portability procedures during the initial year of assisted occupancy without supervisor approval. An example of such an exception would be where the family obtains new employment outside FH jurisdiction, which was secured after issuance of the voucher.

The supervisor may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control. FH will deny permission to move if there is insufficient funding for continued assistance.

### **13.7 RESTRICTIONS OF PORTABILITY**

FH will deny permission to move for the same reasons listed in Chapter 13.3 *Restrictions on Moves*, plus the following reasons:

- a. The PHA has grounds to deny the move because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553
- b. The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the Initial PHA jurisdiction for twelve months since being admitted to the program. (24 CFR 982.353(c)).
- c. The family is an applicant and is not income-eligible in the area in which they wish to initially lease a unit. (24 CFR 982.353(d) (1)).
- d. The requested move does not comply with PHA established policies on the timing and frequency of moves.

- e. The PHA does not have sufficient funding for continued assistance to support the move in accordance with (24 CFR 982.314(e) (1).

**13.7.1 WHEN A NON-RESIDENT APPLICANT REQUESTS TO MOVE**

A family whose head or spouse has a domicile (legal residence) in the jurisdiction of the city and county of Fresno at the time the family first submits its application for participation in the program to FH may lease a unit anywhere in the jurisdiction of FH or outside FH jurisdiction as long as there is another entity operating a tenant-based Section 8 program covering the location of the proposed unit.

A *non-resident* applicant, however, does not have that right. A non-resident applicant [as described in 24 CFR 982.353(c)] is one where neither the head of household nor the spouse had a legal residence in the jurisdiction of the Initial HA at the time when the family first submitted an application for participation in the program to the Initial HA. Such an applicant, who was living in another jurisdiction at the time he or she made an application in the City of Fresno for assistance, will not be permitted to take the voucher and lease up in another city. The applicant may only lease up within the jurisdiction of FH and is not permitted to move outside FH’s jurisdiction during the initial lease term.

**13.7.2 EXCEPTIONS TO THE NON-RESIDENT RESTRICTION**

FH will consider granting an exception to the above restriction pertaining to non-resident voucher holders for the following reasons:

- To protect the health or safety of a family member;
- To accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area);
- To address an emergency situation over which a family has no control;
- Due to Natural Disaster as specified in Chapter 3.4.1;
- For purposes of reasonable accommodation of a family member who is a person with disabilities.

**13.7.3 INSUFFICIENT FUNDING TO SUPPORT THE MOVE**

FH cannot deny a request to move under portability unless previously approved by HUD due to insufficient funding. The PHA may only deny a request for a family to move to a higher cost unit (within the PHA’s jurisdiction or to a higher cost area) if the PHA is unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation for housing assistance payments.

The PHA must provide written notification to the local HUD Office when it is necessary to deny moves to higher cost units and/or area. The notification must include:

1. A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses.
2. A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves to a higher cost unit/area is in place.
3. A copy of the PHA's policy stating how the PHA's will address families who have been denied moves.

Before denying the family's request to move due to insufficient funding, the Initial PHA must contact the Receiving PHA and confirm via e-mail or other confirmed delivery method whether the Receiving PHA will administer or absorb the family's voucher.

If it becomes necessary for FH to disapprove moves to a higher cost unit or higher cost area due to insufficient funding:

- This will be announced to all owners and participants.
- A list of families wanting to move under portability will be retained for 60 days, after which time the list will expire.
- Families who remain on the list and still want to move will have to initiate a new transfer request.

The PHA may not deny a family's request to move to a higher cost unit or area because it wishes to admit additional families from its waiting list into its voucher program.

## **CHAPTER 14: CONTRACT TERMINATIONS**

### **14.1 INTRODUCTION**

This chapter identifies the key documents/contracts that set forth the responsibilities of each party involved in the rental assistance relationship and outlines the policies and procedures under which these contracts can be terminated.

### **14.2 DESCRIPTION OF DOCUMENTS**

There are three parties involved in the rental relationship: the assisted family, the owner and the Fresno Housing.

The rights and responsibilities of the assisted family are defined in the voucher and the Statement of Family Obligations. A copy of the voucher is provided to the family at admission and each time a new voucher is issued. The family signs the Statement of Family Obligations annually.

The relationship between the family and the owner is outlined in the rental lease. Generally, the term of the lease is for one year and then turns into a month-to-month tenancy. Although the Housing Authority is not a part of the lease, HUD regulations allow public housing agencies to act against the family for serious or repeated violations of the lease.

The terms of the relationship between the owner and the Housing Authority are outlined in the Housing Assistance Payment (HAP) contract. The term of the HAP contract is the same as the term of the lease.

### **14.3 TERMINATION OF THE LEASE BY THE FAMILY: MOVES**

[24 CFR 982.309(c)]

For continued tenant assistance, the family cannot terminate the lease until after the initial term of the lease except for material breach of the lease by the owner. The lease determines the notice period for termination to the owner. Most leases require, at minimum, a 30-day notification. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice of termination at the same time. Failure to do this is a breach of family obligations under the program.

### **14.4 TERMINATION OF THE LEASE BY THE OWNER**

An owner or manager may bifurcate (separate) a lease in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or

others, without evicting, removing, terminating assistance, or otherwise penalizing the victim of such violence which is also a tenant or lawful occupant.

#### **14.4.1 TERMINATING THE LEASE DURING THE INITIAL TERM OF THE LEASE**

[24 CFR 982.310]

During the term of the lease, the owner may not terminate the tenancy except for good cause, which includes serious or repeated violations of the lease and/or violations of federal, state or local law that imposes obligations on the family in connection with the use of the unit.

Under such conditions, the owner must provide both the family and the Housing Authority with a copy of any notice to move or eviction action. An eviction action is defined as a notice to vacate, or a complaint, or other initial pleading used under state and local law to commence an eviction action. Any eviction notice served to a family must specify the grounds for termination of the tenancy.

An owner may begin termination of a tenancy for good cause by serving a legal notice of termination on the family for the following reasons:

1. Serious or repeated violation of the terms and conditions of the lease [24 CFR 982.310 (a)(1)];
2. Violation of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises [24 CFR 982.310(a)(2)]
3. Other good cause, [24 CFR 982.310] including:
  - Criminal activity by the tenant, any member of the household, a guest, or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises [24 CFR 982.310(d)]
  - Any drug-related criminal activity on or near the premises; or
  - Tenant disturbance of neighbors, destruction of property, or behavior resulting in the damage of the premises.

#### **14.4.2 TERMINATING THE LEASE AFTER THE INITIAL TERM OF THE LEASE**

After the initial term of the lease, the owner may terminate the lease for other good cause. Examples of other good cause include:

- Business or economic reason for regaining possession of the unit
- Owner's desire to repossess the unit for personal or family use or for a

purpose other than residential property;

When terminating the lease for business or economic reasons, the owner is required to provide a 90-day notice to both the family and the Housing Authority.

#### **14.4.3 TERMINATING THE LEASE DUE TO FORECLOSURE DURING THE TERM OF THE LEASE**

(Foreclosure ACT of 2009)

- During the term of the lease, an owner seeking to terminate the lease and vacate the property prior to sale shall not constitute other good cause.
- If the tenant has more than 90 days left on the lease they can stay in the unit until the end of the lease.
- If the new owner seeks to occupy the unit as their primary residence, the owner is required to provide a 90-day notice to both the family and FH.

#### **14.5 MUTUAL TERMINATION OF THE LEASE**

In cases where the owner and the family agree to terminate the lease, both parties have an obligation to notify the Housing Authority in writing at least 30 calendar days in advance of the vacate date in order that the Housing Authority may avoid overpayment to the owner. If the family has properly notified the Housing Authority and is in good standing, they will be scheduled for a transfer appointment where they will receive a voucher and all the necessary documents to search for a new unit.

In cases of domestic violence, the provisions contained in The Violence Against Women Act 2013 may be cause for mutual termination of the lease. See sections 13.2.5 and 15.6.

#### **14.6 TERMINATION OF THE HAP CONTRACT BY HOUSING AUTHORITY**

[24 CFR 5.233]

The Housing Authority will terminate the HAP contract as follows:

- When the Housing Authority terminates program assistance for the family.
- FH will check the Deceased Tenant report in HUD's EIV system monthly. In the case of a single –member household or where the remaining household member is a live-in aide, assistance and the HAP contract will terminate no later than the first of the following month in which the death occurred. No HAP will be paid for any month following the death.
- When the owner has breached the HAP contract.

- If the family is required to move from a unit which is overcrowded based on the Housing Authority's current subsidy standards [24 CFR 982.403(a)]
- If funding is no longer available under the Annual Contribution Contract - ACC [24 CFR 982.454].
- If the lease is terminated by the owner or tenant.
- If the family moves from the contract unit, the HAP contract terminates automatically.
- The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.
- Upon receipt of a notice of foreclosure on the contract unit due to owner failure to comply with mortgage agreement.
- Citizenship Status: FH will terminate program assistance if no member of the family is a U.S. citizen or eligible immigrant; [24 CFR 982.552 (b) (4)].

Any of the following actions will be considered a breach of the HAP contract by the owner:

- The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit according to the Housing Quality Standards (HQS), including any standards the Housing Authority has adopted in this policy [24 CFR 982.453(a)(1)].
- The owner has violated any obligation under any other HAP contract under section 8 of the 1937 Act (42 U.S.C. 1437f) [24 CFR 982.453(a) (2)].
- The owner has committed fraud, bribery or any other corrupt criminal act in connection with any federal housing program [24 CFR 982.453(a) (3)].
- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for the projects with mortgages insured by HUD or loans made by HUD [24 CFR 982.453(a) (4)].
- The owner has engaged in drug-related criminal activity [24 CFR 982.453(a) (5)].
- The owner has committed any violent criminal activity [24 CFR 982.453(a) (6)].

#### **14.6.1 IF FUNDING IS NO LONGER AVAILABLE UNDER THE ANNUAL CONTRIBUTION CONTRACT -ACC**

Should funding no longer be available under the Annual Contributions Contracts (ACC) and the Housing Authority has to terminate housing assistance due to the lack of Housing Assistance Payments (HAP) funding, the termination policy will protect the elderly and disabled families and veterans of U.S. Armed Forces, as



well as those families that participate in Family Self-Sufficiency, Project-Based Vouchers, and the Section 8 Homeownership Programs.

Effective May 1, 2013:

For the purpose of this termination policy, the term “disabled family” includes a family with a disabled adult member.

The termination methodology will be First In, First Out (FIFO). If the FIFO selection methodology is required, FH will establish a priority list for reinstatement of the households terminated due to the lack of HAP funding. The affected households: a) must complete the income eligibility process for the reinstatement; b) will have the Housing Choice Voucher (HCV) program income limits waived; and c) the criminal background screening will apply to affected households when being reinstated after a period of six months.

Effective January 1, 2015

When a participant’s assistance is terminated under the First In First Out policy due to a shortage of program funding, these families will have reinstatement first rights when vouchers again become available. The right to reinstatement will be for up to one year after the effective date of the family’s termination of assistance.

#### **14.7 HAP PAYMENTS AND CONTRACT TERMINATIONS**

[24 CFR 982.311]

When a HAP contract terminates, the Housing Authority will make payments in accordance with the HAP contract. FH will:

- Allow the landlord to retain the HAP for the month in which the termination or vacate occurred.
- Not provide any additional payments beyond the month of termination or vacancy.

This does not apply if the unit is in abatement due to the landlord non-compliance. If the family continues to occupy the unit after the HAP contract is terminated, the family is responsible for the total amount of contract rent due to the owner.

#### **14.8 TERMINATIONS DUE TO RESTRICTIONS ON ASSISTANCE TO NONCITIZENS**

[24 CFR 5.514]

A tenant's assistance will be terminated upon the following events if evidence of citizenship (i.e. the declaration) and eligible immigration status is not submitted:

- At initial occupancy, or
- For new occupants of assisted units (i.e. A new family member comes to live in the assisted unit), at first interim or regular reexamination following the person's occupancy.
- Evidence of citizenship and eligible immigration status is timely submitted, but INS primary and secondary verification does not verify eligible immigration status of a family member; and the family does not pursue INS appeal or information hearing rights as provided in this section; or
- INS appeal and information hearing rights are pursued; but the final appeal or hearing decisions are decided against the family member; or
- The responsible entity determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the assisted housing unit of the family member. Such termination shall be for a period of not less than 24 months. This provision does not apply to a family if the ineligibility of the ineligible individual was considered in calculating any pro-ration of assistance provided for the family.

## CHAPTER 15: TERMINATION OF ASSISTANCE

24 CFR 982.551 through 982.553

### 15.1 INTRODUCTION

FH may terminate assistance for a family because of the family's action or failure to act. FH will provide families with 1) written description of the Family Obligations under the program, 2) the grounds under which FH can terminate assistance, and 3) FH's informal hearing procedures. This chapter covers termination of assistance under HUD regulations and FH policies; how circumstances are factored into FH's decision to terminate assistance; how a non-citizenship determination is reached; and how missed appointments and deadlines can result in FH decision to terminate assistance.

#### 15.1.1 GENERAL DEFINITIONS

[24 CFR 5.100]

HUD and FH have defined the following:

**Covered person**, for purposes of 24 CFR 5, subpart I, and parts 966 and 982, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

**Drug** means a controlled substance as defined in Section 102 of the Controlled Substance Act (21 U.S.C 802).

**Drug-related criminal activity** (as defined in Section 102 of the Controlled Substances Act 21 U.S.C 802) is the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

**Violent criminal activity** means any illegal 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].

**Other criminal activity** means any criminal activity including, but not limited to, violent criminal activity.

**Currently engaged in** means any use or possession of illegal drugs during the previous twelve months.

**Pattern of abuse** is defined as the use of and/or possession of a controlled substance or alcohol if there are more than three incidents during the previous 24

months.

**Incident** includes but is not limited to arrests, convictions, no contest pleas, fines, and city ordinance violations.

**Serious violation of the lease** includes but is not limited to history of non-payment of rent, criminal or drug-related activity, damages to the unit, and serious or repeated lease infractions.

**Pattern/history of lease violations** is defined as 3 or more notices from the owner and/or property manager for serious or repeated lease infractions within a 24-month period.

**Abusive or violent behavior toward FH personnel** includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language (written or oral) that is customarily used to insult or intimidate, may be cause for termination of assistance.

**Threatened** refers to oral or written threats or physical gestures that communicate an intent to abuse or commit violence.

## 15.2 TERMINATION OF FAMILY ASSISTANCE

**Form of Termination of Assistance (Participants)** [24 CFR 982.552(a)] – Due to a household’s action or failure to act, FH may terminate assistance to participants by:

- 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
- Failure to maintain the assisted unit in accordance with Housing Quality Standards (HQS). The participant is responsible for keeping the unit in compliance with HQS, including maintaining the appliances, paying utility bills and ensuring continuous utility service for any appliance and utility that the owner is not required to provide under the lease and HAP contract. The participant is not responsible for owner-related HQS fail items.

## 15.3 MANDATORY TERMINATION

FH **must** terminate assistance for the following reasons:

1. **Methamphetamine** – if any member of the household has ever been convicted of manufacturing or producing methamphetamine on the

premises of federally assisted housing [24 CFR 982.553 (b)(1) (ii)].

2. **Lifetime Registration:** If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program [24 CFR 982.553 (a) (2)]. The termination applies to sex offenders only.
3. **Criminal Activity (Drug-Related)** - Any household member has violated the family's obligation under 982.551 not to engage in drug-related criminal activity [24 CFR 982.553 (b) (1)(iii)].
4. **Current Illegal Drug Use for Any Household Members:** if any household member is currently engaged in any illegal use of a drug [24 CFR 982.553 (b) (i) (A)].
5. **A Pattern of Illegal Use of a Drug** – if FH determines that a pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents [24 CFR 982.553 (b) (i) (B)].
6. **Alcohol Abuse** – if FH determines that a 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 and persons residing in the immediate vicinity of the premises [24 CFR 982.553 (b) (3)].
7. **Serious Violation of the Lease** - if the family is evicted from housing assisted under the program for serious violation of the lease. [24 CFR 982.552 (b) (2)]
8. **Criminal Activity (Violent Criminal Activity)** - Any household member has violated the family's obligation under 982.551 not to engage in violent criminal activity [24 CFR 982.553 (b) (2)].
9. **Consent Forms:** FH will terminate program assistance if any member of the family fails to sign and submit HUD-required or FH-required consent forms for obtaining information [24 CFR 982.552 (b) (3)].
10. **Citizenship Status:** FH will terminate program assistance if no member of the family is a U.S. citizen or eligible immigrant; (see Chapter 14) [24 CFR 982.552 (b) (4)].
11. **Students in Higher Education:** If a student, applying for or participating in the HCV program separately from his parents, is a student enrolled at an institution of higher education AND is under the age of 24, not a veteran, unmarried, and does not have any dependent children, the student will be denied (if an applicant) or terminated (if a current HCV participant) if either his income separately or his parent's joint income does not meet the income requirements for admission to or participation in the HCV program [24 CFR 982.552 (b) (5), 24 CFR 5.612].

12. **Mandatory Social Security Numbers:** Where a family member is required to provide documentation of their SSN as required in Chapter 4, Mandatory Social Security Numbers and in Chapter 7, Verification of Social Security Numbers, failure on the part of the family member to provide the documentation will result in termination of the entire family. FH will terminate assistance if the family submits falsified Social Security number documentation [PIH Notice 2018-24].
13. **End of Participation:** If the family is under contract and 180 days (six months) have elapsed since FH's last housing assistance payment was made, the family will be terminated.

### 15.3.1 ZERO ASSISTANCE TENANTS

[24 CFR 982.455]

The family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated.

If, within the 180-day timeframe, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, FH will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment [24 CFR 982.455 (a)].

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

### 15.3.2 RE-STATEMENT OF ASSISTANCE EXCEPTION

If a family member is terminated from assistance due to an arrest for a criminal charge, the family may be re-instated upon documentation that the criminal charge was dismissed or the person was found “not guilty” by a court of law.

### 15.4 GROUNDS FOR TERMINATION OF ASSISTANCE

FH **may** at any time terminate program assistance for a participant, for any of the following violations:

- **Family Obligations:** The family violates any family obligation under the program as listed in 24 CFR 982.551 [24 CFR 982.552 (c) (1) (i)]. See §982.553 (b) (2) concerning termination of assistance for crime by family

members.

- Evicted from Federally Assisted Housing: If any member of the family has ever been evicted from federally assisted housing in the last five years [24 CFR 982.552 (c) (1) (ii)].
- If FH has ever terminated assistance under the program for any member of the family [24 CFR 982.552 (c) (1) (iii)].
- Fraud, Bribery, or Other Corrupt or Criminal Act within a Federal Housing Program: If any family member has committed such acts in connection with a Federal housing program [24 CFR 982.552 (a) (1)].
- Outstanding Debt: The family currently owes rent or other amounts to FH or to another housing authority in connection with Section 8 or public housing assistance under the 1937 Act [24 CFR 982.552 (c) (1) (v)].  
Non Reimbursement to FH for payments to owners: if the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease [24 CFR 982.552 (c) (1) (vi)].  
Repayment Breach with a Housing Authority: The family breaches an agreement with FH to pay amounts owed to FH, or amounts paid to an owner by FH (FH, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to FH or amounts paid to an owner by FH. FH may prescribe the terms of the agreement) [24 CFR 982.552 (c) (1) (vii)].
- Actual or Threatened Abusive or Violent Behavior toward FH Personnel: If the family has engaged in or threatened abusive or violent behavior toward FH personnel [24 CFR 982.552 (c) (1) (ix)], includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language (written or oral) that is customarily used to insult or intimidate, may be cause for termination.
- A participant's misrepresentation of any information to FH and/or any other agency that is related to eligibility, preferences, housing history, allowances, family composition, and/or criminal history (i.e. Welfare Fraud).
- Family Self-Sufficiency (FSS) Non-compliance: If a family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation [24 CFR 982.552 (c) (1) (viii)].
- Noncompliance: with any assistance programs, governmental agency and/or law enforcement.
- Eviction or records of disturbance of neighbors sufficient to warrant a police call which may adversely affect the health, safety, and peaceful enjoyment of the premises by the other residents or person residing in the immediate vicinity of the premises.

- Pattern of violent behavior- includes evidence of repeated acts of violence on the part of any individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors. Actual physical abuse or violence may be cause for termination of assistance.

**Criminal Activity** - FH may terminate assistance if FH determines that any household member has a history of any of the following:

- a. Drug-related criminal activity; up to three years from the date of the offense.
- b. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; up to three years from the date of the offense.
- c. Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of FH (including a FH employee or a FH contractor, subcontractor or agent); up to three years from the date of the offense.
- d. Violent criminal activity; up to five to seven years from the date of the offense, depending upon the seriousness of the crime committed.
- e. Convicted of any felony; up to three years from the date of the offense.

Although an arrest record cannot solely be used for denying or terminating program assistance, an arrest record can trigger an inquiry into whether there is sufficient evidence for the FH to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. FH will utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct is fact occurred [PIH 2015-19].

## 15.5 CONSIDERATION OF CIRCUMSTANCES

[24 CFR 982.552 (c) (2)] (i)]

HUD authorizes FH to consider all relevant circumstances or by proposition of law when deciding whether to termination assistance based on a family's past history except in the situations for which termination of assistance is mandated; see Chapter 15.3 *Mandatory Termination*.

In deciding whether to terminate assistance because of action or failure to act by members of the family; FH:

- Has discretion to consider all relevant circumstances in each case, including



the seriousness of the case. FH will use its discretion in reviewing, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the length of time since the violation occurred. FH may also review the family's more recent history and record of compliance, and the effects of termination of assistance on other family members who were not involved in the action or failure to act.

- May impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. FH may permit the other members of a family to continue in the program [24 CFR 982.552 (c) (2) (ii)]. If the violating member is a *minor*, FH may consider individual circumstances with the advice of Juvenile Court officials. FH will also consider whether the culpable member is a victim of domestic violence, dating violence, or stalking.
- In determining whether to terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, FH:
  - Will 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).
  - May require the family to submit evidence of the household member's current participation, or successful completion of a supervised drug or alcohol rehabilitation program.
- *Reasonable Accommodation:* If termination is based upon behavior resulting from a disability, FH will delay the termination in order to determine if there is an accommodation which would negate the behavior resulting from the disability in accordance with Part 8 of Title 24.
- FH will also consider whether the family disclosed the information to FH under penalty of perjury when completing the certification packet.

If FH seeks to terminate assistance because of illegal use or possession for personal use of a controlled substance, such use or possession must have occurred within *one year* before the date that FH provides notice to the family of FH determination to terminate assistance.

If the family intentionally willingly and knowingly *commits fraud* or is involved in any other illegal scheme with the owner, FH will terminate assistance. *In making this determination*, FH will carefully consider the possibility of overt or implied

intimidation of the family by the owner and the family's understanding of the events.

### **15.5.1 REQUIRED EVIDENCE**

FH will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

1. *Preponderance of evidence* will not be determined by the number of witnesses, but by the greater weight of all evidence.
  
2. *Credible evidence* may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants. FH will pursue fact-finding efforts as needed to obtain credible evidence.

### **15.5.2 NOTICE OF TERMINATION OF ASSISTANCE**

In any case where FH decides to terminate assistance to the family, FH must give the family written notice which states:

- a) The reason(s) for the proposed termination,
- b) The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.
- c) The date by which a request for an informal hearing must be received by FH, which is 10 business days from the date the letter is mailed.
- d) Provide VAWA documentation

### **15.5.3 TERMINATION OF ASSISTANCE BASED ON CRIMINAL RECORDS**

[24 5.903 (f)]

In all cases where a criminal record or sex offender registration information would result in termination of assistance, FH will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information and an opportunity to dispute the accuracy and relevance of the information before a termination action is taken.

The family will be given 10-business days from the date of FH notice, to dispute the accuracy and relevance of the information. If the family does not contact FH to dispute the information within that 10-business day period, FH will proceed with the termination action.

#### **15.5.4 CONFIDENTIALITY OF CRIMINAL RECORDS**

Consistent with the limitations on disclosure of records, FH has established and implemented a system of records management that ensures that any criminal record received by FH from a law enforcement agency is:

- Maintained confidentially;
- Not misused or improperly disseminated; and
- Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to FH action without institution of a challenge or final disposition of any such litigation.

All eviction and criminal background history is retained by the contracted provider. FH will not print search results unless there is a need to due to an applicant's request for an Informal Review or as needed for review.

The results of FH's background check will be maintained in a secure and confidential database. A copy of the Consent for Release of Information along with the approval/denial status will be kept in the participant's file.

#### **15.6 VIOLENCE AGAINST WOMEN ACT (VAWA)**

Under the Violence Against Women Act 2013 (VAWA) statutes, the abuser's criminal activity directly related to abuse and beyond control of the victim **shall not be** grounds for termination. The legislation clarifies that FH may terminate a VAWA victim if the individual is an actual and imminent threat to other tenants or the community. Also if the victim is evicted for unrelated criminal activity, this may be grounds for termination of the HCV assistance, provided FH does not hold the victim to a more demanding standard than other program participants.

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or other household member claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, FH will require the individual to provide a signed statement certifying that claim.

The required certification must be submitted to FH within 14 business days after FH request is received by the victim. If the individual does not submit the required

certification within the required 14-business day period, FH will proceed with termination of the family's assistance.

## **15.7 PROCEDURES FOR NON-CITIZENS**

[24 CFR 5.514]

*Termination due to Ineligible Immigrant Status:* Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. FH must offer the family an opportunity for a hearing. (See Chapter 4 "Eligibility for Admission", Section on Citizenship/Eligible Immigration Status.)

Assistance *may not* be terminated while verification of the participant family's eligible immigration status is pending.

*False or Incomplete Information:* When FH has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, FH may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. FH will then verify eligible status, deny, terminate, or prorate as applicable. FH will terminate assistance based on the submission of false information or misrepresentations.

*Procedure for Termination:* If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with FH either after the INS appeal or in lieu of the INS appeal.

After FH has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable) [24 CFR 5.514, 5.516, 5.518].

## **15.8 MISSED APPOINTMENTS AND DEADLINES**

[24 CFR 982.551, 982.552 (c)]

It is a Family Obligation to supply information, documentation, certification and not miss appointments as needed for FH to fulfill its responsibilities. A Notice of Termination of Assistance will be sent to families who are in non-compliance for:

- Verification Procedures
- Housing Quality Standards and Inspections
- Re-certifications
- Appeals
- Scheduled Appointments
- Failure to provide requested documentation

*Acceptable reasons* for missing appointments or *failing to provide information* by deadlines are accepted for extenuating circumstances such as medical, family emergency or other reasons that may need to be approved by a supervisor or manager.

**Procedure when Appointments are Missed or Information Not Provided**

1. The family will be given an opportunity to comply before being issued a Notice of Termination of Assistance for breach of a family obligation.
2. The Notice of Termination may be rescinded for the following reasons:
  - If the family offers to correct the breached item(s) or cause within the time allowed to request a hearing and
  - If the family offers to cure and the family does not have a history of non-compliance, the notice will be rescinded.

See Chapter 12.5.4 Failure to Respond to Notification of Requirement for Annual Reexamination and Chapter 10.2.2 Annual HQS Inspections for more information on FH policy when appointments are missed.

**15.9 INFORMAL HEARINGS**

[24 CFR 982.555]

This information is covered in Chapter 19: Reviews, Hearings and other Appeals.

## **CHAPTER 16: FAMILY SELF-SUFFICIENCY (FSS) PROGRAM**

(24 CFR 984.101 – 401)

### **16.1 INTRODUCTION**

The FSS program encourages families to attain economic independence and self-sufficiency. Families receiving Housing Choice Voucher (HCV) rental assistance and participating in FSS are provided one-on-one case management services to identify career/education goals, build assets, increase earnings, and/or achieve homeownership. The objective of the FSS program is to assist low-income families in reducing/eliminating dependency on government assistance programs.

### **16.2 FAMILY ELIGIBILITY**

[24 CFR 984.103]

Participation in the FSS program is on a voluntary basis for families receiving housing assistance through the HCV program administered by FH.

### **16.3 PROGRAM COORDINATING COMMITTEE (PCC)**

[24 CFR 984.202]

FH collaborates with a program coordinating committee (PCC) consisting of representatives from the public and private sector. The PCC is responsible to assist FH in developing the FSS Action Plan (The FSS action plan is available on the FH website). Other responsibilities include partnering with community organizations to provide supportive services and community resources to assist FSS families in overcoming barriers to self-sufficiency. These include, but are not limited to:

- Childcare
- Education
- Transportation
- Counseling
- Employment readiness
- Vocational training
- Homeownership education

## **16.4 FSS FAMILY SELECTION PROCESS**

[24 CFR 984.203]

FH will open the FSS interest list as needed in order to maintain the minimum program size. When the interest list is open, families may use any of the following options to be placed on the interest list:

- Call FH
- Submit an FSS Application in person or by mail

Families are contacted according to the date and time the family expressed an interest. Eligible families are mailed an invitation to attend a one-on-one FSS orientation with an FSS Coordinator. At the orientation the family is given a general overview of the program and details on the roles and responsibilities of FSS participants, as well as the role of FH. A description of supportive services, escrow accounts, program policies, expectations, and requirements for successful completion of the program is provided. Families sign a Contract of Participation, Individual Training and Services Plan (ITSP) and complete the family profile. A needs assessment is conducted to develop the ITSP for achieving self-sufficiency.

Families who decide at the orientation not to participate in FSS will be removed from the FSS interest list.

## **16.5 DENIAL OF FSS PARTICIPATION**

[24 CFR 984.303]

FH may deny participation to families who:

- Owe money to FH or any other Public Housing Authority (PHA)
- Failed to comply with the HCV program at any PHA
- Failed to comply with the FSS program at any PHA
- Have successfully graduated from the FSS program with any PHA and received a full escrow payout

## **16.6 CONTRACT OF PARTICIPATION**

[24 CFR 984.303]

The designated Head-of-Household (HOH) must sign a Contract of Participation, which describes the rights and responsibilities of the FSS family and FH. The

effective date of the contract is the first month following the date of enrollment.  
The term limit is five (5) years.



### **16.6.1 ESSENTIAL COMPONENTS**

The following information must be entered into the contract for it to be valid:

- Contract start and end date
- Annual income
- Earned income
- Family rent portion (TTP or 30 percent of Monthly Adjusted Income for vouchers)
- Participant's signature and date
- FH Representative signature and date

### **16.6.2 CONTRACT EXTENSIONS**

Contracts may be extended up to a maximum of two (2) additional years with the approval of FH. A written request must include "good cause," e.g., an FSS family is unable to complete the ITSP goals due to circumstances beyond the family's control. Other examples of "good cause" include but are not limited to:

- Serious illness
- Involuntary loss of employment
- Death in the family
- Separation/divorce
- Physical/mental impairment, external economic factors or other excruciating circumstances beyond the participants control which will require additional time to change and/or complete education/career goals
- Pursuit to homeownership
- Pursuit to higher education

During an extension to the contract, the family continues to have FSS amounts credited to the escrow account in accordance with 24 CFR 984.304.

### **16.6.3 TERMINATION OF THE CONTRACT**

[24 CFR 984.303(h)]

The contract of participation is automatically terminated if the family's Section 8 assistance is terminated in accordance with HUD requirements. The contract of participation may be terminated before the expiration of the contract term, and any

extension granted by FH. The contract may be terminated for terms and conditions listed below:

- Failure of the FSS family to meet the obligations under the Contract of Participation without good cause
- Failure to comply with the Contract requirements because the family has moved outside the jurisdiction of FH
- Such other act as is deemed inconsistent with the purpose of the FSS program

The Contract of Participation may also terminate due to:

- Mutual consent of the parties
- The family's withdrawal from the FSS program

#### **16.6.4 COMPLETION OF THE CONTRACT**

The Contract of Participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when one of the following occurs:

- The FSS family has fulfilled all of its obligations under the contract and obtained suitable employment on or before the expiration of the contract term, including any extension thereof, or
- The thirty (30) percent of the FSS family's monthly adjusted income is equal to or exceeds the published Fair Market Rent (FMR) for the size of the unit for which the FSS family qualifies based on FH occupancy standards.

#### **16.6.5 INDIVIDUAL TRAINING AND SERVICES PLAN (ITSP)**

[24 CFR 984.303]

The ITSP plan identifies the participants' job-related final goal, as well as interim goals. Timelines for completion are established for each goal. The final goal must include suitable full-time employment, which also demonstrates advancement in education/employment/vocational training. FSS coordinators monitor the progress of each FSS family.

The ITSP shall include:

- The resources and services to be provided by FH
- Targeted completion dates for each individual interim goal
- Referrals for career, education, and job-related activities
- Final goal to obtain suitable full-time employment

- Interim goal must include the requirement to be off welfare assistance for twelve (12) consecutive months prior to the completion/expiration of the Contract, including any extensions. [24 CFR 984.303(b)(2)]
- Participant's signature and date
- FH Representative signature and date

The participant may change the goals and services in the ITSP by submitting a written request for the change. The final employment goal can be changed only if: 1) The new goal demonstrates full-time suitable employment and supports FSS program goals for self-sufficiency; and 2) the interim goals align with the final goal. The ITSP goals may be revised no more than three (3) times during the five-year contract period or any extension thereof.

#### **16.6.6 CHANGE IN HEAD OF HOUSEHOLD**

The FSS participant may designate a new HOH if the current HOH is unable to complete their obligations under the Contract of Participation. The request must be submitted to FH in writing. The new HOH must sign and complete a new contract of participation and a new ITSP for goals and services. The start and end date of the new contract will remain the same as the original contract of participation.

#### **16.6.7 HOUSEHOLD WITH MORE THAN ONE ITSP**

The FSS family may have more than one ITSP in a single household. Although, other adults are eligible to enter into their own individual ITSP, the Contract of Participation remains with the head of household and each adult family member with an ITSP must complete the activities in the ITSP. The additional adults will not be eligible for an escrow pay out.

### **16.7 FSS ESCROW ACCOUNTS**

[24 CFR 984.305]

As an incentive for families to join the FSS program and as a strategy to assist families in building assets, HUD regulations allow an escrow account to be established on behalf of eligible families. Eligibility for an escrow account is determined according to a HUD-defined formula using the family's earned income data [24 CFR 982.505].

As the family's earned income increases and the household rent increases, FH calculates escrow eligibility according to the HUD formula to determine the amount

of escrow credits. Escrow funds are held in the participant's name until the participant has met the requirements for final escrow disbursement.

Under the requirements for escrow disbursement, the FSS participant must have:

- Completed the goals in the ITSP
- Obtained suitable employment. FH has determined suitable employment for the HOH as year round full-time sustainable employment to be not less than thirty (30) hours per week **and** the gross annual income is equal to or exceeds the state minimum wage multiplied by nineteen hundred and fifty (1950) hours. Seasonal employment does not meet FH standards for suitable employment unless the HOH is employed all year round with multiple seasonal jobs.
- Certified that all members of the household have not received welfare assistance for twelve (12) consecutive months prior to the expiration of the term of the contract, including any extension thereof.
- Achieved an annual anticipated income whereby thirty (30) percent of the family's monthly adjusted income is equal to or exceeds the published FMR for the size of unit which the FSS family qualifies based on FH's occupancy standards.

FH cannot restrict a family's use of FSS escrow account funds withdrawn by the family unless the funds are withdrawn to aid in the completion of an interim goal.

#### **16.7.1 ANNUAL FSS ESCROW STATEMENT**

[24 CFR 984.305(3)(i)(ii)(iii)(iv)(v)]

FH will mail an escrow statement to all FSS family at least once annually. The statement will include:

- The balance at the beginning of the reporting period;
- The amount of the family's rent payment that was credited to the FSS account during the reporting period;
- Any deductions made from the account for amounts due the PHA;
- The amount of interest earned during the year, and
- The total amount in the account at the end of the reporting period.

#### **16.7.2 INTERIM DISBURSEMENT**

[24 CFR 984.305(c)(2)(ii)]

FH may disburse a portion of the funds from the family’s escrow account during the Contract of Participation for completing an interim goal, if the funds are used for purposes consistent with the Contract of Participation, such as, but not limited to:

- School tuition
- Business start-up expenses
- A vehicle if public transportation is unavailable or inaccessible to the family
- Job training expenses
- Down payment for a home

### **16.7.3 FORFEITURE OF ESCROW ACCOUNT**

[24 CFR 984.305(f)(i)(ii)(2)(ii)]

The FSS escrow account may be forfeited if the family fails to comply with the FSS program, and any one of the following is true:

- The Contract of Participation is terminated, according to 24 CFR 984.303 (e),(h)
- The Contract of Participation is declared null and void
- The family has not met its responsibilities as stated in the Contract of Participation
- The HOH has failed to obtain suitable employment on or before the expiration of the contract term, including any extension thereof
- An intergenerational family, whose HOH becomes independent of welfare assistance, however another family member (or other members) of another household in the same family continue to receive Temporary Assistance for Needy Families (TANF). Note: If the family is receiving a TANF child-only grant, or TANF non-needy grant as stated in HUD Notice PIH 2007-20, forfeiture of the escrow account will not be considered.
- The head of the family dies and the remaining members of the family choose not to continue participating in the program, and the contract obligations were not met by the HOH prior to his/her departure.

In the HCV program, FSS escrow account funds forfeited by the family will be treated as program receipts for payment of program expenses under the PHA budget for the HCV program, and shall be used in accordance with HUD requirements governing the use of program receipts.

### **16.7.4 SUCCESSION TO FSS ACCOUNT**

[24 CFR 984.305(d)]

If the FSS HOH no longer resides with other family members in the assisted unit, the other remaining adult members of the FSS family have the right to designate another adult family member to receive the funds. FH must be consulted and must approve this change. The request for change of HOH must be submitted in writing, and must include the following:

- The name of the new designated FSS HOH
- The signature of the new FSS HOH
- The effective date of the change

An addendum to the FSS Contract must include the effective date of change and must be signed by the new head of household and FH representative.

## **16.8 GRIEVANCE**

The FSS participant will be notified via mail of decisions affecting the family's participation in the FSS program. The notification will include the reasons for the decision and FH policies and HUD regulations supporting it. If the participant disagrees with the decision, an appeal may be made within ten (10) business days of the notification (for any issues which are grievable per 24 CFR 982.555(a)(1) and 984.303(i)). The appeal must be submitted in writing to FH for review. The family will be notified in writing of the due process, including the date set for an informal hearing.

## **16.9 PORTABILITY**

[24 CFR 984.306]

### Relocating FSS Family

After the first twelve (12) months of the FSS Contract of Participation, the FSS family may move outside the Initial PHA jurisdiction under the portability procedures in accordance to CFR 982.353.

### **16.9.1 PORT-IN FAMILIES**

The relocating FSS family may participate in FH's FSS program if there are available FSS slots. The relocating family must submit a written request to FH for continued participation in the FSS program, prior to the expiration of the FSS Contract of Participation and/or expiration of the Housing Choice Voucher. FH is not obligated to enroll the relocating family in the FSS program. If the family is accepted in the FSS program, the Receiving PHA will enter into a new contract of participation with the FSS family for the term remaining on the contract from the Initial PHA. The Initial PHA will terminate its contract or participation with the family.

### **16.9.2 PORT-OUT FAMILIES**

The FSS family porting out of FH may participate in the receiving PHA FSS program, if the receiving PHA has a FSS program. The receiving PHA is not obligated to enroll the family in the FSS program. If the receiving PHA enrolls the family in the FSS program, the escrow account will be transferred to the receiving PHA.

## CHAPTER 17: CONTINUUM OF CARE

### 17.1 INTRODUCTION

FH receives funding for Continuum of Care Program (CoC) program tenant based rental assistance to serve individuals/families experiencing homelessness, who may also be disabled and homeless including the chronically homeless population. Some of the CoC program policies and procedures are the same as that of the Housing Choice Voucher (HCV) program except as otherwise noted. If there is a conflict between program regulations and the Administrative Plan, the program regulations have precedence.

FH provides CoC assistance under the Tenant-based Rental Assistance (TRA) of 24 CFR 578. **The CoC is not a Section 8/HCV program.** The CoC program is authorized by Title IV; Subtitle C, of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act) (42 U.S.C. 1403-11407b) as amended by Homeless Emergency Assistance and Rapid Transition to Housing: Continuum of care Program (HEARTH CoC Program) (42 U.S.C 11381 - 11389) which is designed to provide rental assistance and supportive services for homeless individuals and families with disabilities. The program primarily targets assistance to homeless individuals/families experiencing homelessness who have been diagnosed with the following:

- Mental illness;
- Physical/Intellectual Developmental Disability;
- Behavioral Health Issues, including substance use disorder;
- AIDS and related diseases.

### 17.2 TERM OF THE PROGRAM

[24 CFR 578.19; 578.33(c)]

Assistance is provided for a term of one (1) year or for as long as there is a continuum of funding available for this program. The program has limitations on bedroom sizes, see 17.17 CERTIFICATE BEDROOM SIZE ISSUED (COC SUBSIDY STANDARDS) and assistance will be issued accordingly.

### 17.3 BOARD OF COMMISSIONERS

[24 CFR 578.19]

FH receives funding for the FMCoC program as a member of the Fresno-Madera Continuum of Care (FMCoC). The Fresno-Madera CoC provides for the



consultation and participation of not less than one individual who is currently or formerly experienced homelessness serve on the FMCoC board of directors.

In addition, FH has resident and participant commissioners on FH Board. These individuals have the authority to vote on policy-making decisions.

## **17.4 OUTREACH**

[24 CFR 578.17(c)]

FH will make every effort to partner with community-based organizations to provide effective outreach for hard-to-reach populations. Outreach should be directed to those who are in an emergency shelter or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human being (e.g. person living in care, streets, and parks).

In addition, outreach to the property owners will be provided through participation in apartment association meetings. For more information on outreach please refer to CHAPTER 1: STATEMENT OF POLICIES AND OBJECTIVES.

## **17.5 SERVICE MATCH DOCUMENTS**

[24 CFR 578.73]

Under HUD regulations for CoC program, FH is required to have a 25% cash or in-kind match for all grant funding excluding leasing costs.

## **17.6 HOMELESS MANAGEMENT INFORMATION SYSTEM (HMIS)**

FH participates in the HMIS program. HMIS is a computerized data collection application designed to capture client-level information on the characteristics and service needs of adults and children experiencing homelessness over time. HMIS is designed to aggregate client-level data to generate an unduplicated count of clients served within a community's system of homeless services, often referred to as the CoC.

## **17.7 DEFINITIONS**

Some key definitions for this program are listed below. Additional definitions can be found in 24 CFR 578.3

### Literally Homeless –

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- Lack a fixed, regular and adequate nighttime residence, meaning:
  - Have a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations (including transitional housing), hotels/motels paid for by charitable organizations, federal, state or local government;
  - A public or private place not ordinarily used as an accommodation

- for human being (lacks indoor plumbing, toilet facilities, bathing facilities, adequate or safe electrical service, heat, or kitchen);
  - Fleeing or attempting to flee domestic violence, dating violence, assault, stalking;
- Has no other residence; and lacks the resources or support networks to obtain other housing.

Chronically Homeless – An unaccompanied homeless individual with a disabling condition who has either been continuously homeless for twelve (12) months or more OR has had at least four (4) episodes of homelessness in the past three (3) years that equal twelve (12) months or more. To be considered chronically homeless, a person must have been on the streets, safe haven or in an emergency shelter (i.e. not in transitional housing) during these stays.

Persons with disabilities – a household composed of one or more persons at least one of whom is an adult who has a disability.

1. A person shall be considered to have a disability if such person has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such nature that such ability could be improved by more suitable housing conditions.

2. A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that:

- (i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) Is manifested before the person attains age 22;
- (iii) Is likely to continue indefinitely;
- (iv) Results in substantial functional limitations in three or more of the following areas of major life activity;
  - (A) Self-care
  - (B) Receptive and expressive language;
  - (C) Learning;
  - (D) Mobility;
  - (E) Self-direction;
  - (F) Capacity for independent living; and
  - (G) Economic self-sufficiency; and
  - (H) Reflects the person’s need for a combination and

sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

## **17.8 REFERRAL PROCESS**

Eligible individuals/families are referred to the CoC Programs via the Coordinated Entry System (CES) upon request from FH as and when the TRA is available.

## **17.9 ELIGIBILITY**

Applicants must meet HUD's eligibility requirements for the CoC program to qualify for rental assistance. In order to determine final eligibility, FH may verify all information submitted by applicants.

## **17.10 VERIFICATION PROCEDURES**

Since HUD requires that factors of eligibility must be verified, applicants and program participants are required to provide proof of their statements whenever required by FH. The CoC program may require additional documents when verifying program eligibility. For example:

- Homeless Certification Form: Must be provided for all individual/families referred to FH for the CoC program.
- Disability Verification Form: Must be provided for all individuals claiming a disability, especially a disability that is cited as a qualifying factor for the CoC program. Written determinations must be made by a professional trained to make such determination.

## **17.11 DENIAL OF PARTICIPATION**

If a family has previously participated in any federally subsidized program and violated a family obligation and was terminated, the family may be denied future participation for a period of three (3) years.

Families referred and their contracted Community-Based Organization(s) (CBO) will be sent a denial letter and referred to the CBO if there are any further questions.

## **17.12 CRIMINAL BACKGROUND CHECKS**

CoC applicants will not be required to undergo the criminal background check described in Chapter 4 of this Plan, with one exception. A criminal background check *will* be performed for head-of household and all adult family members, live-in aides eighteen years of age and older, to determine if client or family member is subject to a lifetime registration requirement under a State sex offender registration [24 CFR 982.553 (a) (2)].

## **17.13 BRIEFING SESSIONS**

Once determined eligible, the family is required to attend a briefing session (see Chapter 8). The family will enter into a CoC Contract of Participation which explains that loss of program assistance may occur if any member of the family violates the terms. A Request for Tenancy Approval (RFTA) is also provided at the briefing session.

CoC uses Fair Market Rents published by HUD to determine the contract rent.

#### **17.14 ISSUANCE OF CERTIFICATE**

At the completion of the initial briefing and the signing of the CoC Contract of Participation, a CoC certificate will be issued. The eligible applicant must locate a unit within 120 days. If an extension is needed, one may be requested. The request will be evaluated and a decision made based upon the same policy outlined in the voucher issuance section of Chapter 8 of this administrative plan.

#### **17.15 RENTAL ASSISTANCE PAYMENT (RAP) CONTRACTS**

The owner must sign a (RAP) Contract for the CoC program, and must comply with its provisions in addition to the requirements of the lease agreement.

#### **17.16 TENANT RENT PORTION UNDER CoC**

CoC program funds are contracted based on 100% of the Fair Market Rents published by HUD. Tenant rental portions are limited to 30% of the participant's adjusted monthly income.

To calculate tenant's rent portion the following steps should be taken:

1. Calculate each of the following:
  - a) 10% of the gross income.
  - b) Then calculate 30% of the adjusted monthly income, and
  - c) Welfare rent.
2. Subtract the greatest of the three from the utility allowance (if the utility allowance is not included in the rent) to obtain the tenant rent portion.
3. To arrive at the RAP, subtract the tenant rent portion from the contract rent.

For more information on determining adjusted income, please refer to Chapter 6 (Factors Related to Total Tenant Payment Determination).

Actual amount of General Relief income will be calculated in determining the total tenant payment for CoC families receiving general relief income. The following is not applicable to the CoC program:

- Earned Income Disallowance
- Minimum Rent (\$50)
- Zero Income 90 day review
- Monthly Living Expense worksheet

#### **17.17 CERTIFICATE BEDROOM SIZE ISSUED (COC SUBSIDY STANDARDS)**

Under the CoC program, the client will be eligible for a bedroom size based upon family composition and will be issued as follows:

- Head-of-Household or head-of-household and spouse—One bedroom
- All other family members—Two Persons for each additional bedroom (not to exceed a 3 bedroom unit)
- Caregivers and Live-in Aides—One additional bedroom (not to exceed a 3 bedroom unit)

Bedroom sizes are limited based on the allocation specified in the CoC grant agreement.

#### **17.18 RE-EXAMINATIONS/INTERIMS**

[24 CFR 578.77]

FH is required to process annual re-examinations. In cases where a family experiences a change in household composition and/or income between annual re-examination, FH will process an interim re-examination. The family is required to report all changes in household composition and/or income to FH within 30 calendar days of the occurrence. For more information regarding causes for processing annual/interim reexaminations and the requirements for competing annual/interim re-examinations, please refer to Chapter 12.

#### **17.19 HOUSING QUALITY STANDARDS**

[24 CFR 578.75(b)]

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant based programs. HQS standards are required both at initial occupancy and annually during the term of the RAP contract. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and RAP Contract. For more information on HQS refer to chapter 10 with the exception that 982.401 (j) does not apply. However, Part 35 subparts A, B, K, and R of this title does apply.

#### **17.20 RENT REASONABLENESS**

[24 CFR 578.51(d)]

It is FH's responsibility to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. FH will not approve the lease or execute RAP contract until it has determined that the unit meets the minimum HQS and that the rent is reasonable. FH will determine rent reasonableness at initial lease-up, before any increase in rent to owner and at other times described in Chapter 12.

## **17.21 LIMITATIONS ON COC ASSISTANCE**

### **17.21.1 SECTION 8 HOMEOWNERSHIP PROGRAM**

The Section 8 homeownership program outlined in the Administrative Plan does not apply to the CoC program client.

### **17.21.2 FAMILY SELF-SUFFICIENCY (FSS)**

The CoC client is not eligible for the FSS program.

### **17.21.3 PORTABILITY**

CoC clients have no portability rights. CoC clients must continue to live within FH's jurisdiction for as long as they continue to participate in this program.

### **17.21.4 RETENTION OF ASSISTANCE AFTER DEATH, INCARCERATION, OR INSTITUTIONALIZATION FOR MORE THAN 90 DAYS OF QUALIFYING MEMBER**

[24 CFR 578.75(1)(i)]

Members of any household who were living in an assisted unit at the time of the qualifying members death, long-term incarceration, or long-term institutionalization, have the right to rental assistance under this section until the expiration of the lease in effect at the time of the qualifying member's death, long-term incarceration, or long-term institutionalization.

## **17.22 TRANSFERS BY FH**

FH may elect to transfer participants from one CoC TRA to another CoC TRA grant, if FH determines such transfer is necessary for grants management reasons, (e.g. to increase or decrease spending rates in a given grant). Such transfers do not involve a physical move by the participant. FH shall document the date of the transfer and the reason for the transfer in the participant's file.



## **17.23 TERMINATIONS RELATED TO THE CoC PROGRAM**

### **17.23.1 WHEN COC FAMILY VIOLATES PARTICIPATION AGREEMENT**

Housing assistance may be terminated if a family violates specific CoC program Participant-Service Provider Agreement, Contract of Participation and/or the family obligation.

### **17.23.2 REQUESTS FROM OUTSIDE AGENCY TO TERMINATE HOUSING ASSISTANCE UNDER COC**

CBO's and/or other government units or departments currently contracted by FH that provide supportive services may request termination of housing assistance for a program participant who is in violation of the CoC program requirements, Participant-Service Provider Agreement, Contract of Participation, and/or conditions of occupancy.

## **CHAPTER 18: OWNER OR FAMILY DEBTS TO FH**

### **18.1 INTRODUCTION**

This chapter describes FH's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is FH's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support FH's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

FH will sometimes take other or additional actions than debt recovery when program fraud or abuse occurs. For more information, see Chapter 24 on Program Integrity.

### **18.2 TYPES OF DEBT OWED TO FH**

Families are required to repay FH for amounts paid to an owner on behalf of the family for unpaid rent.

When repayment is required due to a determination of the family's underpayment of rent as a result of unreported or underreported income, the calculation of underpayment will be made retroactively to the first of the following month of which the change occurred.

Owners are required to repay FH to recover overpayments, abatements or other reduction of housing assistance payments. (24 CFR 982.453(b).

#### **18.2.1 PROGRAM FRAUD**

Families who owe money to FH due to program fraud are subject to the policies described in Chapter 24.

If a family owes an amount which equals or exceeds \$10,000.00 as a result of program fraud, the case will be referred to the Inspector General. Where appropriate, FH will refer the case for criminal prosecution.

Any amount owed to FH by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA FH will offer to enter into a repayment agreement in accordance with the policies

below.

### **18.3 COLLECTION METHODS**

When families or owners owe money to FH, FH will make every effort to collect it. FH will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Reductions in HAP to owner
- Repayment agreements
- Collection agencies
- Civil suits
- Franchise Tax Board (FTB) for interagency intercept collections

### **18.4 REPAYMENT AGREEMENT FOR FAMILIES**

[24 CFR 792.103, 982.552 (c) (6-8)]

If a family owes money to FH for claims paid to an owner, FH will review the circumstances resulting in the overpayment and decide whether the family must pay the full amount or enter into a repayment agreement.

If a repayment agreement is to be entered into, FH will require that the family pay a minimum 10% initial lump sum with the remaining balance to be paid in equal payments over a period of time not to exceed 24 months. The maximum amount for which FH will enter into a payment agreement with a family is \$10,000.

A repayment agreement as used in this Plan is a document entered into between FH and a person who owes a debt to FH. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to FH upon default of the agreement.

FH may offer a repayment agreement to the tenant or owner, which acknowledges a debt, in a specific amount and agreement to repay the amount due within two (2) years of the agreement date.

The maximum amount for which FH will enter into a payment agreement with a family is \$10,000.

Payment plans beyond the 2-year agreement may be considered in cases of family hardship and if requested with reasonable notice from the family with verification of the hardship, and the approval of the supervisor.

#### **18.4.1 GUIDELINES FOR REPAYMENT AGREEMENTS**

[24 CFR 982.552 (c) (8)]

Repayment agreements will be executed between FH and the head of household or spouse or co-head.

Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family with verification of the hardship, and the approval of the supervisor.

#### **18.4.2 PAYMENT SCHEDULE FOR MONIES OWED TO FH**

The repayment schedule will be set up on a case-by-case basis, depending upon the family's income; however, initial payment and all subsequent payments must be set up so that the monies will be paid in full within one year.

#### **18.4.3 ADDITIONAL MONIES OWED**

If the family already has a Repayment Agreement in place and incurs an additional debt to FH, FH may enter into an additional repayment agreement with the family or FH may initiate the termination process. Extenuating circumstances may be referred to a supervisor.

#### **18.4.4 LATE PAYMENTS**

If a payment is not received by the close of business, 10 business days after the due date. It is considered late and FH may:

- Require the family to pay the balance in full
- Pursue civil collection of the balance due
- Terminate the housing assistance
- Grant an extension of 30 calendar days (requires supervisory approval)

#### **18.4.5 REQUESTS TO MOVE AND BALANCE IS STILL OWING**

If the family requests a move to another unit and is in arrears on a repayment agreement for money owed to FH, the request for a voucher to move will be denied, unless the balance is paid in full.

However, if the need to move is due to one of the following reasons, (or for another reason which is approved by a supervisor), the request to move may be approved:

- Family size exceeds the HQS maximum occupancy standards
- The HAP contract is terminated due to owner non-compliance or opt-out

- A move from the premises is required as a reasonable accommodation

#### **18.4.6 REFUSAL TO PAY, ENTER INTO AGREEMENT, OR BREACH OF CONTRACT**

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, FH will terminate assistance in accordance with 24 CFR 982.551 and 24 CFR 982.553 and pursue other modes of collection.

#### **18.5 OWNER DEBTS TO FH**

[24 CFR 982.453(b)]

If FH determines that the owner has retained Housing Assistance Payments for which he is not entitled, FH may reclaim the amounts from future Housing Assistance Payments owed the owner for any units under contract.

If future Housing Assistance Payments are insufficient to reclaim the amounts owed, FH will take one or more of the following actions:

- Require the owner to pay the amount in full within 30 calendar days
- Enter into a Repayment agreement with the owner for the amount owed
- Pursue collections through the local court system
- Restrict the owner from future participation at FH discretion.

#### **18.6 RECORD KEEPING AND REPORTING REQUIRED WITH FRAUD RECOVERIES**

[24 CFR 792.204]

HUD regulations (24 CFR 792.204) encourage public housing agencies to investigate and pursue instances of tenant and owner fraud and abuse in the operation of the Section 8 housing assistance programs. According to the criteria explained in part 792, FH will be eligible to retain a portion of program fraud recoveries.

To permit HUD to audit amounts retained under this part, FH will maintain all records required by HUD, including:

- Amounts recovered on any judgment or repayment agreement;
- The nature of the judgment or repayment agreement; and
- The amount of the legal fees and expenses incurred in obtaining the judgment or repayment agreement and recovery.



## CHAPTER 19: REVIEWS, HEARINGS AND OTHER APPEALS

### 19.1 INTRODUCTION

The informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of FH. This Chapter describes the policies, procedures and standards to be used when families disagree with an FH decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of FH to ensure that all families have the benefit of all protections due to them under the law.

This Chapter also addresses the Housing Choice Department's policy on handling discrimination complaints.

### 19.2 DISCRIMINATION COMPLAINTS

Should an applicant or participant contact the Housing Choice Voucher Department with a claim that a department employee engaged in a discriminatory action in carrying out program rules, an appointment will be made with a supervisor. The supervisor will question the client in order to learn the exact nature of the complaint.

All processes will be assessed as to whether correct policy was carried out.

If the process was conducted correctly, regulatory requirements will be explained to the client. If upon assessment it is found that processes need to be streamlined, the process will be reviewed and improvements will be made.

If there was an oversight on the part of the Assisted Housing Division (AHD), the error will be corrected and the family will be accommodated accordingly to federal guidelines.

If upon assessment a personnel issue should arise, progressive discipline will be instituted and the family would again be accommodated.

In the event an applicant or participant brings some other discrimination issue to the attention of the AHD, this will be handled by a staff person at the supervisory level or above. A referral to the Fair Housing Council will be made when appropriate; but not before researching any issue which is within the scope of authority of FH and applying a suitable remedy.



### **19.2.1 OTHER COMPLAINTS TO FH**

FH will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. FH may require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

All complaints from families, owners, and the general public regarding disagreement with an action or inaction of FH will be referred to a supervisor.

If a staff person reports an owner or family is either violating or not complying with program rules, the matter will be referred to a supervisor.

### **19.3 INFORMAL REVIEW PROCEDURES FOR APPLICANTS**

[24 CFR 982.54(d)(12), 982.554]

FH will give an applicant an opportunity for an informal review of FH decision denying assistance to the applicant. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

#### **19.3.1 NOTICE TO APPLICANT**

When FH determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible
- The procedure for requesting a review if the applicant does not agree with the decision
- The time limit for requesting a review

#### **19.3.2 WHEN INFORMAL REVIEW IS REQUIRED**

FH must provide applicants with the opportunity for an Informal Review of decisions denying:

- Listing on FH's waiting list
- Issuance of a Voucher
- Participation in the program

### **19.3.3 WHEN INFORMAL REVIEW IS NOT REQUIRED**

Informal Reviews are not required for established policies and procedures and FH determinations such as:

1. Discretionary administrative determinations by FH
2. General policy issues or class grievances
3. A determination of the family unit size under FH subsidy standards
4. Refusal to extend or suspend a Voucher
5. Disapproval of tenancy
6. Determination that unit is not in compliance with HQS
7. Determination that unit is not in accordance with HQS due to family size or composition

### **19.3.4 PROCEDURE FOR REVIEW**

The procedures for informal review will include the following:

- A request for an Informal Review must be received in writing by the close of the business day, no later than 10 business days from the date of FH's notification of denial of assistance.
- The informal review will be scheduled within 30 business days from the date the request is received.
- The applicant will be given the option of presenting oral or written objections to the decision.
- Both FH and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.
- The review may be conducted by mail, virtually, and/or telephone if acceptable to both parties.
- A Notice of the Review findings will be provided in writing to the applicant within 10 business days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

### **19.3.5 REVIEW OFFICER**

The hearing will be conducted by any person or persons designated by FH, other than a person who made or approved the decision under review, or a subordinate

of this person.

### **19.3.6 RESTRICTIONS ON ASSISTANCE FOR NON-CITIZENS**

This type of denial is covered in *Hearing and Appeal Provisions for Non-Citizens* of this Chapter.

### **19.4 INFORMAL HEARING PROCEDURES**

[24 CFR 982.555(a-g), 982.54(d)(13)]

#### **19.4.1 WHEN HEARING IS REQUIRED**

FH will provide participants with the opportunity for an informal hearing to consider whether the following FH decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and FH policies:

1. A determination of the family's annual or adjusted income and use of such income to compute the housing assistance payment.
2. A determination of the appropriate utility allowance for tenant-paid utilities from FH utility allowance schedule.
3. A determination of the family unit size determination under FH subsidy standards.
4. A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under FH's subsidy standards, or FH determination to deny the family's request for exception from the standards.
5. A determination to terminate assistance because a participant family has been absent from the assisted unit for longer than the maximum period permitted under FH policy (see Chapter 6) and HUD rules.
6. A determination to terminate assistance for a participant family because of family's action or failure to act.
7. Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account.
8. Determination not to reduce a family's portion of rent because of 1) family's noncompliance with welfare requirements or 2) welfare fraud.
9. A determination not to approve a family's request for a reasonable accommodation, as required in providing grievance rights under Section 504 of the Rehabilitation Act of 1973.

FH will always provide the opportunity for an informal hearing before termination of assistance.

#### **19.4.2 WHEN HEARING IS NOT REQUIRED**

Informal Hearings are not required for established policies and procedures and FH determinations such as:

- Discretionary administrative determinations by FH.
- General policy issues or class grievances.
- Establishment of FH schedule of utility allowances for families in the program.
- An FH determination not to approve an extension or suspension of a voucher term.
- An FH determination not to approve a unit or tenancy.
- An FH determination that an assisted unit is not in compliance with HQS. (However, FH must provide a hearing for a family breach of HQS because that is a family obligation determination).
- An FH determination that the unit is not in accordance with HQS because of the family size.
- An FH determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

#### **19.4.3 NOTICE TO FAMILY**

In cases in which the family is entitled to an informal hearing as described in 19.4.1 above, FH will notify the family that the family may ask for an explanation of the basis of FH determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.

This written notice will:

1. Include a brief statement of the reasons for the decision
2. State the family has a right to an explanation of the basis for FH's decision
3. State that if the family does not agree with the decision, the family may request an informal hearing on the decision
4. State the deadline for the family to request an informal hearing
5. Indicate to whom the hearing request should be addressed

#### **19.4.4 SCHEDULING AN INFORMAL HEARING**

[24 CFR 982.555(d)]

When an informal hearing is required, FH must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

- A request for an informal hearing must be made in writing and delivered to FH either in person, via email, or by first class mail, by the close of the business day, no later than 10 business days from the date of FH's decision or notice to terminate assistance.
- FH will send written notice of the informal hearing date to the family within 10 business days of the family's request. The written notice will also include the request for the family to make any rebuttal evidence available to FH within 10 business days prior to the hearing date.
- 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, FH may request documentation of the "good cause" prior to rescheduling the hearing.
- If the family does not appear at the scheduled time, and did not make prior arrangements to reschedule the hearing, the decision made by FH upon which the appeal has been requested, will stand.
- The family has a 15-minute grace period to show up for the appointment. If family does not show, FH decision will be upheld. FH will take into consideration extenuating circumstances.

#### **19.4.5 NOTIFICATION OF HEARING**

It is FH's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, FH will ensure that applicants and participants receive all of the protections and rights afforded by the law and the regulations.

- When FH receives a request for an informal hearing, a hearing shall be scheduled within 30 business days. The notification of hearing will contain the time, date and place of the hearing, and the family's right to bring evidence, witnesses, legal or other representation at the family's expense
- Upon request, copies of the documents or evidence in the possession of FH upon which FH based the proposed action will be made available to the family for review no later than 5 business days before the hearing date.

Arrangements other than mailing may be made with the family if the evidence is of a confidential nature (e.g. criminal records).

#### **19.4.6 FH'S HEARING PROCEDURES**

FH and participants will adhere to the following procedures:

1. Discovery

Upon request, before the hearing, the family will be given the opportunity to examine any FH documents that are directly relevant to the hearing. The family will be advised regarding how they may view this information. Any documents not provided by FH to the family as part of discovery, cannot be later introduced by FH at the hearing.

FH will give the family the opportunity to share any documents of its choice which are relevant to the hearing with FH prior to the hearing. FH will be allowed to copy any such document at FH's expense. If the family does not make the document(s) available to FH prior to the hearing, the family may not rely on the document(s) at the hearing.

2. Representation of the Family

At its own expense the family may be represented by a lawyer or other representative.

3. Hearing Officer

The hearing will be conducted by any person or persons designated by FH, other than a person who made or approved the decision under review or a subordinate of this person.

The person who conducts the hearing will regulate the conduct of the hearing in accordance with FH hearing procedures.

4. Evidence

FH will produce an audio recording of the informal hearing. If the family wishes to have a copy of the recording such a request must be made 10 business days prior to the hearing date.

FH and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. If a witness is not able to attend the hearing, FH will allow a sworn

declaration under penalty of perjury (does not require notarization) to be provided in place of the witness.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" include records and regulations.

The Hearing Officer will determine whether the action, inaction or decision of FH is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing.

If the Hearing Officer determines that additional evidence is needed prior to making the decision, the Hearing Officer may set a date to reconvene the hearing once the information is received so the family may review the additional evidence and respond to it.

#### 5. Family Rights

- To present written or oral objections to FH's determination;
- To present any information or witnesses pertinent to the issue of the hearing;
- To request that a FH staff be available or present at the hearing to answer questions pertinent to the case; and
- If a family wishes to request an audio recording of the hearing, such request must be made 10 business days prior to the hearing date. The family and FH have the right to have the hearing recorded by audiotape, at the requesting party's expense.

#### 6. FH Rights

In addition to other rights contained in this Chapter, FH has the right to:

- Be notified if the family intends to be represented by legal counsel, advocate, or another party
- Have its attorney present
- Have staff persons and other witnesses present who are familiar with the case.

#### 7. Issuance of Decision

The person who conducts the hearing must issue a written decision within 10 business days. Factual determination relating to the individual circumstances of the family shall be based on a preponderance of the



evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to FH and the family and shall include:

- A clear summary of the decision and reasons for the decision;
- If the decision involves money owed, the amount owed; and
- Documentation of the calculation of monies owed;

The date the decision goes into effect is determined by FH.

## 8. Effect of the Decision

FH is not bound by a hearing decision:

- Which concern matters in which FH is not required to provide an opportunity for a hearing
- Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State or local laws; or
- Which exceed the authority of the person conducting the hearing under FH procedures.

If FH determines that it is not bound by a hearing decision, FH will notify the family in writing within 10 business days and the reason for the determination.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of FH shall take effect and another hearing will not be granted.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

## 9. Appellate Review

If the family does not agree with the Hearing Officer's decision, the family may request an appellate level review by the Executive Director or his designee.

## **19.5 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 on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while FH 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 FH informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.



### **19.5.1 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 pro-ration of assistance if at least one family member is a citizen or eligible immigrant.
- 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 FH 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.

### **19.5.2 USCIS APPEAL PROCESS**

[24 CFR 5.514(e)]

When FH receives notification that the USCIS secondary verification failed to confirm eligible immigration status, FH must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide FH with a copy of the written request for appeal and the proof of mailing.

FH will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results. The family must provide FH 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 FH, of its decision. When the USCIS notifies FH of the decision, FH must notify the family of its right to request an informal hearing.

FH 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.

### **19.5.3 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 FH provide a hearing. The request for a hearing must be made either within 30 days of receipt of FH 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**

FH 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.

#### **Evidence**

The family must be provided the opportunity to examine in advance of the hearing, any documents in the possession of FH 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. FH's policy regarding this right of discovery, which pertains to both the family and to FH, is described in *FH's Hearing Procedures, Discovery, of this chapter*.

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 FH, and to confront and cross-examine all witnesses on whose testimony or information FH 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 FH, as may be agreed upon by the two parties.

### **Recording of the Hearing**

FH will produce an audio recording of the informal hearing. If the family wishes to have a copy of the recording such a request must be made 10 business days prior to the hearing date.

### **Hearing Decision**

FH must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

## **19.5.4 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 FH provide a hearing. The request for a hearing must be made either within 30 days of receipt of FH notice of termination, or within 30 days of receipt of the USCIS appeal decision.

## **19.5.5 RETENTION OF DOCUMENTS**

[24 CFR 5.514(h)]

FH must retain for a minimum of 5 years the following documents that may have been submitted to FH by the family, or provided to FH as part of the USCIS appeal or FH 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

## **CHAPTER 20: LIMITED ENGLISH PROFICIENCY (LEP)**

### **20.1 INTRODUCTION**

In accordance with Executive Order 13166, FH will provide meaningful access to its programs and activities by persons with Limited English Proficiency (LEP). This chapter describes how FH will undertake reasonable efforts to provide or arrange free language assistance for its LEP participants and applicants to the assisted housing programs as well as the general public.

See also Section 1.154 of this Plan, “When Translation Services Are Needed” and Appendix B for the Language Assistance Plan.

### **20.2 MEANINGFUL ACCESS & the FOUR-FACTOR ANALYSIS**

Meaningful access is free language assistance in accordance with federal guidelines. FH will assess and update the following four-factor analysis as needed, including but not limited to:

- The number or proportion of LEP persons eligible to be served or likely to be served by FH.
- The frequency with which LEP persons using a particular language come into contact with FH.
- The nature and importance of FH program, activity or service to the person’s life.
- FH’s resources and the cost of providing meaningful access.

### **20.3 LANGUAGE ASSISTANCE**

The following language assistance policies will apply:

- A person who does not speak English as their primary language AND who has a limited ability to read, write, speak or understand English may be a Limited English Proficient (LEP) person and may be entitled to language assistance with respect to FH programs and activities.
- Language assistance includes interpretation, which means oral or spoken transfer of a message from one language into another language; and/or translation, which means the written transfer of a message from one language into another language. FH will determine when interpretation and/or translation services are needed and are reasonable based upon the four-factor analysis.
- FH staff will take reasonable steps to provide language assistance to LEP



clients who have difficulty communicating in English. Should a client ask for language assistance and the Housing Authority determines that: a) the client is an LEP person and b) such assistance is necessary to provide meaningful access, FH will make reasonable efforts to provide free language assistance. The Housing Authority will provide the language assistance in the LEP client's preferred language upon request.

FH will periodically assess client needs for language assistance based on the frequency of requests for interpreters and/or translation, as well as the literacy skills of clients.

#### **20.4 TRANSLATION OF DOCUMENTS**

FH will consider the following factors in determining whether a document requires translation:

- Whether the document meets the threshold of a “vital document”. Per the HUD guidance, “vital documents” are those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically. For further details see FH’s Language Assistance Plan (LAP).
- The costs and benefits of translating documents for potential LEP groups, the barriers to meaningful translation or interpretation of technical housing information, the likelihood of frequent changes in documents, the existence of multiple dialects within a single language group, the literacy rate in an LEP group and other relevant factors. FH will undertake this examination when an eligible LEP group constitutes 5 percent of an eligible client group (for example, 5 percent of households living in FH housing developments) or 1,000 persons, whichever is less.

In consideration of the above, FH provides translations of the following assisted public housing “vital documents”:

- Application
- Outreach activities
- Voucher
- Family Obligations
- Lease Addendum
- Termination letters

As FH continues to translate further assisted public housing program “vital documents”, this list will be updated on an annual basis.

As opportunities arise, FH may work with other local Public Housing Authorities (PHAs) to share the costs of translating common documents.

As HUD continues to translate standard housing documents in multiple languages, FH will replace its translated versions with the official HUD versions. FH encourages HUD to provide this service to PHAs and other federally funded agencies whose limited resources hinder their LEP efforts.

FH will consider technological aids such as Internet-based translation services, which may provide helpful, although perhaps not authoritative, translations of written materials.

## **20.5 AUDIOVISUAL MATERIALS**

FH will make reasonable efforts to produce multiple translations of audiovisual materials it uses to inform or educate applicants, participants and other client groups.

## **20.6 INTERPRETERS**

### Formal Interpreters

To provide meaningful access for LEP clients, FH will use the Language Line Services which provides accurate and complete interpretation in 156 languages. At important stages that require one-on-one contact, written translation and verbal interpretation services will be provided consistent with the four-factor analysis herein.

Outside vendors who are qualified interpreters shall be used at the following and at the request of the family:

- Informal reviews for denial of admission
- Informal meetings for settlement agreements and
- Informal hearings for termination of rental assistance.

### Informal Interpreters

Informal interpreters may include the family members, friends, legal guardians, service representatives or advocates of the LEP client. FH staff will determine whether it is appropriate to rely on informal interpreters, depending upon the circumstances and subject matter of the communication. However in many circumstances, informal interpreters, especially children, may not be an appropriate option to provide accurate interpretations. There may be issues of

confidentiality, competency or conflict of interest.

An LEP person may use an informal interpreter of his/her own choosing and at his/her expense, either in place of or as a supplement to the free language assistance offered by FH. If possible, the Housing Authority should accommodate an LEP client's request to use an informal interpreter in place of a formal interpreter.

If an LEP client prefers an informal interpreter, after FH has offered free interpreter services, the informal interpreter may interpret. If the LEP person decides to provide his/her own interpreter, the LEP person's election of this choice will be documented. FH may require the family to sign a waiver of their right to FH-supplied interpreter.

If an LEP client wants to use his/her own informal interpreter, FH reserves the right to also have a formal interpreter present.

### Outside Resources

Outside resources may include community volunteers, FH residents or Housing Choice Voucher/Section 8 participants.

Outside resources may be used for interpreting services at public or informal meetings or events if a timely request has been made.

FH will establish and maintain relationships with organizations that assist specific cultural and ethnic groups living in the City of Fresno. To help their clients obtain or keep housing assistance through FH, these organizations may provide qualified interpreters for LEP persons.

## **20.7 MONITORING**

FH will review and revise the LAP Policy as needed as part of the Agency Plan process. The review will include:

- Reports from FH's software system on the number of LEP clients, to the extent that the software and staff data entry can provide such information. Such reports may be supplemented by staff observations.
- A determination as to whether 5 percent or 1,000 persons from HCV participants speak a specific language, which triggers consideration of document translation needs as described above.
- Analysis of staff requests for contract interpreters: number of requests, languages requested costs, etc.

## **20.8 LEP POLICY DISTRIBUTION AND TRAINING**

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The LEP Policy will be:

- Distributed to all FH staff.
- Available at FH Administrative Office.
- Posted on FH's website at [www.fresnohousing.org](http://www.fresnohousing.org)
- Explained in orientation and training sessions for supervisors and other staff who need to communicate with LEP clients.

## **CHAPTER 21: SECTION 8 HOMEOWNERSHIP PROGRAM**

### **21.1 INTRODUCTION**

FH has developed their Section 8 Homeownership Program (S8 HOP) according to the Quality Housing and Work Responsibility Act of 1998 and the Section 8 Homeownership Final Rule of September 12, 2000. Program is not currently accepting applications but FH will continue to administer active contracts. FH is exploring new guidelines for reinstating the program and will notify the public if FH begins accepting applications.

### **21.2 GENERAL PROVISIONS**

[24 CFR 982.625]

S8 HOP option is used to assist existing Housing Choice Voucher (HCV) program participants to purchase a home using mortgage subsidy rather than rental subsidy. Under this subsidy option FH will pay a monthly homeownership assistance payment; it will not offer homeowner assistance in the form of a single down payment assistance grant.

FH will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

FH has established a minimum homeowner down payment requirement of at least three (3) percent of the purchase price for participation in the S8 HOP; and requires that at least one (1) percent of the purchase price come from the participant's personal resources.

FH requires financing on the purchase of a home under the S8 HOP to:

1. Be provided, insured, or guaranteed by the State or Federal government;
2. Comply with secondary mortgage market underwriting requirements, or
3. Comply with generally accepted private sector underwriting standards.

### **21.3 FAMILY ELIGIBILITY REQUIREMENTS**

[24 CFR 982.626, 982.627]

The participant must meet all initial requirements before the commencement of homeownership assistance, these include: First Time Home Buyer, Unit Eligibility, Income, Employment and the additional HUD requirements listed below:

#### **21.3.1 FIRST TIME HOME BUYER REQUIREMENTS**

Requirements include the following:

1. The participant must be an existing participant in the HCV program.
2. The participant must have satisfactorily completed FH pre-purchase one-on-one and group homeownership counseling.
3. The participant must satisfy the first-time homeowner requirement by being any of the following:
  - A first-time homeowner (as defined in the Glossary of this Administrative Plan);
  - A new cooperative member (as defined in the Glossary); or
  - A participant of which at least one family member in the household is a person with a disability, and use of the homeownership option is needed as a reasonable accommodation.

### **21.3.2 UNIT ELIGIBILITY REQUIREMENTS**

Refer to ELIGIBLE UNITS later in this Chapter.

### **21.3.3 INCOME REQUIREMENTS**

- The participant must have a gross annual income equal to the federal minimum wage multiplied by 2,000, based on the income of adult family members who will own the home. Unless the family is elderly or disabled, income from welfare assistance will not be counted toward this requirement.
- In the case of elderly/disabled participants, the minimum income requirement will be the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone multiplied by twelve.
- For an elderly/disabled participant, welfare assistance payments for adult family members who own the home will be included in determining the minimum income requirement.

### **21.3.4 EMPLOYMENT REQUIREMENTS**

The participant must meet the federal minimum employment requirement. (This does not apply to elderly or disabled participants).

At least one adult family member who will own the home must be currently employed fulltime and must have been continuously employed for one year prior

to homeownership assistance. (This does not apply to elderly or disabled participants).

HUD regulations define “full-time employment” as not less than an average of 30 hours per week. A participant will be considered to have been continuously employed even if that participant has experienced a break in employment, provided that the break in employment did not exceed 30 calendar days; did not occur within the 6-month period immediately prior to the family’s request to utilize the homeownership option; and has been the only break in employment within the past 12 calendar months.

### **21.3.5 ADDITIONAL HUD ELIGIBILITY RESTRICTIONS**

There are two additional HUD eligibility restrictions:

- FH denies the use of S8 HOP for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance. No family member may have ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- FH denies the use of the S8 HOP for a participant in which an adult member of the household has defaulted on a mortgage while receiving homeownership assistance, thereby securing debt which will be incurred to the home purchase.

### **21.4 HOMEOWNERSHIP COUNSELING REQUIREMENTS**

[24 CFR 982.630]

Once the participant has been determined eligible, they must complete group and/or one-on-one homeownership counseling sessions on the following:

- Budgeting/Financial Literacy
- Credit
- Pre-purchase Homebuyer Education
- Home maintenance (including care of grounds)
- Negotiating the purchase price of a home
- Obtaining loan pre-approvals, and selecting appropriate financing
- Selecting a home in FH jurisdiction based on family needs such as; schools, transportation, supportive services, etc.
- Understanding state and federal truth-in-lending laws to identify and avoid

loans with oppressive terms and conditions

In addition, the participant must complete a 16-hour Homeownership Education and Counseling (HEC) certification program of FH.

FH will require quarterly post-purchase counseling after commencement of homeownership assistance until the final homeownership assistance payment is provided.



## 21.5 ELIGIBLE UNITS

[24 CFR 982.628]

The unit must meet all of the following requirements:

- Participants may enter into a contract of sale for units not yet under construction, however FH will not issue homeownership assistance payments for the unit unless or until:
- The responsible entity has completed an environmental review and provided the review to FH; or
- HUD has performed an environmental review and notified FH in writing of the environmental approval of the site prior to commencement of construction; or
- Construction of the unit has been completed, and the unit has passed Housing Quality Standards (HQS) and the independent private inspection.
- FH will require participants to obtain and maintain flood insurance for units in a special flood hazard area, and prohibit assistance for participants acquiring units in coastal barrier resources. FH will notify the participant if the unit is in an airport runway clear zone and/or airfield clear zone.
- The unit is either a one-unit property (including a manufactured home) or single dwelling unit in a cooperative or condominium.
- A unit where the family will not own fee title to the real property on which the home is located will be approved only if:
  - The home is or will be located on a permanent foundation; and
  - The family has the right to occupy the home site for at least 40 years.
- The unit has passed inspection by FH and by an independent inspector designated and paid for by the family.

## 21.6 INELIGIBLE UNITS

[CFR 982.352]

The unit must not fall under any types of housing listed as ineligible housing in Chapter 9 of this administrative plan, with the **exception** of:

- A unit occupied by its owner or by a person with any interest in the unit.
- FH-owned housing

FH will not approve the seller of the unit if FH has been informed that the seller is disbarred, suspended, or subject to a limited denial of participation.



## **21.7 ISSUANCE OF SECTION 8 VOUCHER AND PURCHASE REQUIREMENTS**

[24 CFR 982.629]

A homeownership voucher will be issued to the participant when all requirements have been met. The participant deadline date for locating, purchasing, and closing escrow on a home is 120 calendar days from the date the family's eligibility for the homeownership option is determined. With good cause, FH may extend the time limit for a participant for an additional 30 days.

Participants must submit progress reports during the housing search and escrow period, while continuing to meet with the homeownership coordinator for ongoing counseling. Participant progress reports will be provided in 30-day intervals.

If the participant is unable to purchase a home within the maximum time permitted by FH, FH will continue the client's participation in the Section 8 Housing Choice Voucher rental subsidy program. The participant may not re-apply for the Section 8 Homeownership program until they have completed one-on-one counseling with the Homeownership Coordinator/Housing Counselor.

## **21.8 INSPECTIONS AND SALES CONTRACT**

[24 CFR 982.631]

The unit must meet HQS regulations, and must also be inspected by an independent professional inspector selected by, and paid for, by the participant. The independent inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components. These systems and components include, but are not limited to:

Foundation and structure; housing interior and exterior; roofing; plumbing, electrical and heating systems. Copies of the independent inspection report is provided to the participant and FH by the independent inspector. Based on the information in this report, the family and FH determines whether any pre-purchase repairs are necessary.

FH may disapprove the unit for homeownership assistance based on information provided with the inspection report.

### **21.8.1 SALES CONTRACT**

The participant must enter into a contract of sale with the seller of the unit. A copy of the contract must be given to FH. The contract of sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home. The contract must also:

- Provide that the purchaser is not obligated to buy the unit unless the inspection is satisfactory to the purchaser and to FH.
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Must have certification that the seller has not been debarred, suspended or subject to a limited denial of participation.

### **21.9 FINANCING AND AFFORDABILITY OF PURCHASE**

[24 CFR 982.632]

The participant is responsible for securing financing options, and obtaining FH approval of the proposed mortgage. FH will impose financing restrictions listed below, and may disapprove proposed financing options if FH determines that the debt is unaffordable.

FH will prohibit the following forms of financing:

- Adjustable Rate Mortgage (ARM)
- Balloon payment mortgages
- Seller financing will be considered on a case-by-case basis.

### **21.10 MORTGAGE ASSISTANCE REQUIREMENTS AND FAMILY OBLIGATIONS**

[24 CFR 982.633]

Homeownership assistance may only be paid while the participant is residing in the home. FH shall not pay Homeownership Assistance Payment for any month after the month when the family moves out of the home.

Before the commencement of homeownership assistance, the unit must pass HQS inspection, and the participant must execute a statement of family obligations. The

participant and any other adult(s) on the mortgage loan must comply with the following obligations:

- To the extent required by FH, the mortgagee(s) must attend and complete ongoing housing counseling. (Refer to *Homeownership Counseling Requirements* in this Chapter.)
- The mortgagee(s) must comply with the terms of any mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The participant may not convey or transfer ownership of the home, except for purposes of FH approved financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to the following stipulations:
  - The participant must utilize the home receiving FH mortgage subsidy as their primary and only residence (CFR 982.551 [h]). The participant must provide certification of primary residence and promptly notify FH upon absence from the unit [CFR 982.551 (h)(1)].
  - The participant must notify FH of any changes in the home pertaining to family composition. All changes in family composition must be approved by FH [CFR 982.551 (h)(2)].
  - Profit-making activities facilitated by any household member must be incidental to the family's residence in the home [CFR 982.551 (h)(5)].
- Household members may not sublease or sublet the home [CFR 982.551 (h)(6)] .
- The participant must supply true and complete information upon the request of FH or HUD which includes but is not limited to:
  - Evidence of citizenship or eligible immigration status (CFR 982.551[b])
  - Information used to complete regularly scheduled reexamination of interim reexaminations of family composition and income (CFR 982.551[b] )
  - Social Security numbers (CFR 982.551[b] )
  - Mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The participant must notify FH before moving out of the home.
- The participant must notify FH if the family defaults on the mortgage used to purchase the home.
- Neither the participant nor any other family member residing in the home may have any ownership interest in any other residential property.

- The participant must allow FH, to inspect the property for HQS compliance prior to the commencement of mortgage subsidy and annually within a 12 month period for as long as the mortgage assistance is provided by FH.

Before commencement of homeownership assistance, the participant must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

## **21.11 MAXIMUM TERM OF HOMEOWNERSHIP ASSISTANCE**

[24 CFR 982.634]

The maximum term of homeownership assistance is:

- 15 years, if the initial mortgage term is 20 years or longer; or
- 10 years in all other cases.

However, the maximum term does not apply in the case of elderly or disabled participants. 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. Additionally, in the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the participant qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date the mortgage assistance commenced. However, in this case the family must be afforded at least 6 months of homeownership assistance after the maximum term becomes applicable.

### **21.11.1 ASSISTANCE FOR DIFFERENT HOMES OR FROM DIFFERENT HOUSING AUTHORITIES**

If the participant has previously received homeownership assistance from any PHA and after a 3 year period, now qualifies for the S8 HOP option, the total amount of assistance terms is subject to the maximum term limitations noted above. The time limit applies to any member of the household who has ownership interest in the unit during any time that homeownership payments are made, or is a spouse of any member of the household who has an ownership interest.

## **21.12 HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES**

[982.635]

The monthly homeownership assistance payment will be equal to 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, FH uses the same payment standard schedule, as those described in this Plan for the HCV program. However, when the payment standard falls below the payment standard used at the initial eligibility for S8 HOP, the higher of the two will be used for determining mortgage subsidy.

FH pays the homeownership mortgage assistance payment directly to the S8 HOP participant, or directly to the lender, depending on the preference of the lending institution. In accordance with HUD regulations, FH has determined the following items will be included as homeownership expenses:

- Principal and interest on initial mortgage debt
- Refinancing of initial mortgage debt
- Mortgage insurance premiums incurred to finance the purchase of the home
- Real Estate Taxes and public assessments of the home
- Home insurance
- An allowance for major repairs and replacements
- Principal and interest on debt for home repairs and improvements
- FH utility allowance used for the HCV program
- Allowance for routine maintenance costs
- Land lease payments (where a family does not own fee title to the real property on which the home is located)

If the home is a cooperative or condominium, expenses will exclude Real Estate taxes and public assessment allowance, but include operating charges or maintenance fees assessed by the condominium or cooperative homeowner association.

Homeownership assistance for a participant terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the participant. However, FH has the discretion to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the participant.

Extreme hardship would be defined as:

- Significant reduction in the household income
- Significant household debt, which was beyond the control of the participant

FH reviews all relevant circumstances regarding financial hardship and reviews them on a case-by-case basis.

### **21.13 PORTABILITY**

[24 CFR 982.636, 982.353(b) and (c), 982.552, 982.553]



Subject to the restrictions on portability included in HUD regulations and in Chapter 13 of this Plan, the participant may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership participants.

#### **21.14 MOVE WITH CONTINUED TENANT-BASED ASSISTANCE**

[24 CFR 982.637]

A participant receiving homeownership assistance may move with continued tenant-based assistance in accordance with HUD regulations in 982.637. The participant may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin if any family member owns any title to the prior home.

#### **21.15 TERMINATION OF ASSISTANCE FOR THE FAMILY**

[24 CFR 982.638, 982.551, 982.552, 982.553]

Termination of homeownership assistance is governed by the policies for the Housing Choice Voucher program outlined in Chapter 15 of the Administrative Plan in accordance with CFR 982.551.

However, the following provisions are not applicable to homeownership:

- Activities regarding lease agreements such as lease violations, transfer of a lease or lease terminations
- Providing eviction notice
- The participant cannot own or have interest in the unit

FH will terminate homeownership assistance if the participant is dispossessed from the home due to a judgment or order of foreclosure.

FH will permit such participant to move with continued voucher rental assistance. However, rental assistance will be denied if the participant has defaulted on a Federal Housing Administration (FHA) insured mortgage, and the participant fails to demonstrate that:

- The participant conveyed title to the home as required by HUD, and;
- The participant moved within the period required by HUD.

FH will terminate homeownership assistance if the participant or any other member of the household violates any of the following:

- Those stated in Chapter 15 of this administrative plan, Grounds for Denial or Termination of Assistance (CFR 982.552)
- Those stated in Chapter 15 of this administrative plan, Crime by Family Members (CFR 982.553).

## **CHAPTER 22: PROJECT-BASED VOUCHERS**

### **22.1 INTRODUCTION**

Under the project-based voucher (PBV) program a local housing authority will enter into a contract with an owner for specific units for a specific term in order to 1) expand the affordable housing in the community, and 2) to provide rental assistance for qualifying low-income families. The voucher assistance is attached to the structure, rather than to the tenant, as occurs in the tenant-based voucher program. The program does not receive separate funding; housing authorities that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD are allowed to use part of its voucher allocation and attach the funding to specific units rather than using it for tenant-based assistance. Housing authorities will only operate a PBV program, which is consistent with its Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities. FH has stated in its Annual Plan its reasons for offering a PBV program in Fresno County, and these are restated below:

#### **22.1.1 PROGRAM'S CURRENT GOALS**

FH has the following current goals for the Project-Based Voucher program:

- FH will operate a project-based voucher program using up to 20 percent of its allocated units under the ACC contract and may project-base an additional 10 percent of its units above the 20 percent program limit, if the units are set aside for homeless families, families with veterans, supportive housing for persons with disabilities or elderly persons, or in areas where vouchers are difficult to use (FR Notice 1/18/17).
- It will promote the de-concentration of poverty and expanding housing opportunities by selecting projects, which are in non-impacted areas (with the exception being those six Redevelopment Agencies (RDA) areas described in this plan.
- It will work with other programs to expand the affordable housing opportunities in our community.
- Promote development of housing units serving very low-income populations, such as homeless, special needs and individuals with severe mental illness.
- FH seeks to enhance services at project-based voucher developments by supporting and tracking the educational achievement and school attendance of its residents and coordinating with partner agencies other necessary resident and social service programs. To that end, FH may implement one or more pilot programs that promote education and school attendance and/or other pilot programs to benefit residents at one or more

project-based voucher developments. In connection with the pilot program(s), FH will implement data sharing practices that allow FH to coordinate with partner agencies and share authorized information, including information related to school attendance and performance. FH will obtain all required authorizations, waivers, and approvals before receiving data from or providing data to a selected agency.

### **22.1.2 ANNUAL PLAN STATEMENT**

As FH strives to provide housing opportunities for individuals and families in need throughout the Fresno County, especially those who are most vulnerable, project-based vouchers (PBV) are an essential resource. To date, FH has agreed to provide PBV to projects targeting persons with very-low incomes, generally below 30-40% of the area median income. Projects selected are in accordance with HUD Title 24 Part 983.51 and FHs Administrative Plan. Selected projects have demonstrated a need for rent subsidy in order to help offset basic operating costs and allow for the projects' financial feasibility.

### **22.2 DESCRIPTION OF THE PBV PROGRAM**

[24 CFR 983.5]

The PBV program is administered by a public housing authority that already administers the tenant-based voucher program, as mentioned earlier, as follows:

- After going through the selection process described later in this Chapter, FH enters into a HAP contract with an owner for units in existing housing or in newly constructed or rehabilitated housing.
- In the case of newly constructed or rehabilitated housing, the housing is developed under an Agreement between the owner and FH. In the agreement FH agrees to execute a HAP contract after the owner completes the construction or rehabilitation of the units.
- During the term of the HAP contract, FH makes housing assistance payments to the owner for units leased and occupied by eligible families.

### **22.3 PBV RULES VERSUS TENANT-BASED VOUCHER RULES**

[24 CFR 983.1, 983.2]

Much of the tenant-based voucher program regulations in 24 CFR 982 also apply to the PBV program. Consequently, many of the HCV 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, such as voucher issuance and portability.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, FH policies for the tenant-based voucher program contained in this Administrative Plan, also apply to the PBV program and its participants.

## **22.4 PBV DEFINITIONS**

[983.3(b)]

Definitions specific to the PBV program are covered in 24 CFR 983.3(b). Definitions regarding other voucher terms can be located in 24 CFR 982.4.

Included below are some key HUD definitions which will assist in understanding our policy regarding the administration of the PBV program Fresno County.

*Agreement to Enter into HAP Contract (Agreement).* The Agreement is a written contract between FH and the owner in the form prescribed by HUD. The Agreement defines requirements for development of housing to be assisted under the PBV program. Once development is completed by the owner in accordance with the Agreement, FH enters into a HAP contract with the owner. The Agreement is not used for existing housing (as described below).

*Existing Housing.* Housing units that already exist on the proposal selection date and that substantially comply with the Housing Quality Standards (HQS) on that date. [The units must fully comply with HQS before execution of the HAP contract].

*Newly Constructed Housing.* Housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an Agreement between FH and the owner for use under the PBV program.

*Non-Impacted Areas.* Those areas that are not located in non-poverty impacted census tracts and the six Redevelopment Agency (RDA) areas located within the FH jurisdiction.

*FH-Owned Unit.* For purposes of the PBV program, a FH-owned unit is one which FH has more than 50 percent controlling interest. FH-owned means that FH or its officers, employees, or agents hold a direct or indirect interest in the building in which the unit is located, including an interest as titleholder or lessee, or as a stockholder, member of general or limited partner, or member of a limited liability corporation, or an entity that holds any such direct or indirect interest.

*Proposal Selection Date.* The date FH gives written notice of PBV proposal selection to an owner whose proposal is selected in accordance with the criteria established in this Chapter.

*Rehabilitated Housing.* Housing units that exist on the proposal selection date, but do not substantially comply with the HQS on that date, and are developed, pursuant to an Agreement between FH and owner, for use under the PBV program.

## 22.5 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. FH may not use voucher program funds to cover relocation costs, except that FH may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR Part 24, subpart B. It is the responsibility of FH to ensure the owner complies with these requirements.

## 22.6 EQUAL OPPORTUNITY REQUIREMENTS

[24 CFR 983.8]

FH will comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, FH must comply with the Agency Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

## 22.7 HOUSING TYPE

[24 CFR 983.52]

FH 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 (hereafter referred to as Agreement) 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 FH selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

FH's choice of housing type will be reflected in its solicitation for proposals.

## **22.8 PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS: INELIGIBLE HOUSING TYPES**

[24 CFR 983.53]

FH will not attach or pay PBV assistance to:

- shared housing units;
- units on the grounds of a penal reformatory, medical, mental, or similar public or private institution;
- nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities);
- units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students;
- manufactured homes;
- cooperative housing; and
- transitional housing.

In addition, FH will not attach or pay PBV assistance for a unit occupied by an owner and FH will not select or enter into an Agreement or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

## **22.9 PROHIBITION OF PBV ASSISTANCE IN SUBSIDIZED HOUSING**

[24 CFR 983.54]

FH will 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 housing authority 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 FH in accordance with HUD requirements.

## **22.10 PROJECT-BASED VOUCHERS AND FH-OWNED UNITS**

[24 CFR 983], 983.102(f), 983.301((g) and 983.303(f)]

HUD allows FH-owned units to be assisted under the PBV program, with certain stipulations:

- HUD requires Housing Quality Standard (HQS) inspections and determination of reasonable rent to be conducted by outside entities [983.59(b)].
- Rent determinations must be in accordance with 24 CFR 983.301 through 983.305 with the same requirements of other units; i.e., are determined by independent entity approved by HUD.
- The independent entity approved by HUD must establish the initial contract rents based on an appraisal by a licensed, state-certified appraiser [983.59(b)(1)].
- The independent entity that performs these program services may be the unit of general local government for the City of Fresno or another HUD-approved public or private independent entity [983.59(c)].
- Payment of the independent entity and the appraiser will come from FH ongoing administrative fees [983.59(d)]; but may be reimbursed by the developer or owner requesting project-based vouchers.
- The independent entity, FH and the appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity [983.59(d)].
- Copies of the HQS inspections and rent reasonableness determinations must be provided to the HUD field office as well as to FH [983.103(f)(2), 983.303(f)(2)].
- A FH-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 selection was appropriate based on the selection

criteria in the administrative plan [983.51(e)].

- Under no circumstances may PBV assistance be used with a public housing unit [983.51(e)].

## **22.11 SELECTION OF PBV OWNER PROPOSALS**

FH will describe the procedures for owner submission of PBV proposals in its Request for Proposal (RFP). The RFP will also include the selection criteria to be used by FH in selecting owner proposals. Before selecting a PBV proposal, FH must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing, complies with the cap on the number of PBV units per project, and meets the site selection standards described in this Chapter.

### **22.11.1 OWNER PROPOSAL SELECTION PROCEDURES**

[24 CFR 983.51]

FH will select PBV proposals in accordance with the selection procedures in its administrative plan and each individual RFP. It will select PBV proposals by either of the following two methods.

#### **Method One: Competitive Basis**

FH will solicit application submissions in response to an RFP under a competitive selection process. FH will 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.

#### **Method Two: Prior Competitive Selection**

FH 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 units); and
- 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
- where the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

### **Method Three: Units Selected Non-Competitively [FR Notice 1/18/2017]**

FH may attach Project Based Vouchers (PBV) to projects in which FH has ownership or controlling interest, without following a competitive process, when FH engages in an initiative(s) to improve, develop, convert under the HUD Rental Assistance Demonstration, preserve, and/or replace a public housing properties or site(s). Ownership Interest means that FH or its officers, employees, or agents are in an entity that holds any such direct or indirect interest in the building(s) and/or real property, including, but not limited to an interest as: titleholder; lessee; a stockholder; a member, or general or limited partner; or a member of a limited liability corporation or limited partnership. Projects selected with this exemption method will typically include planning rehabilitation or construction on the project with a minimum of \$25,000 per unit in hard costs. However, this minimum per unit cost would not be applicable in a situation where FH is replacing a public housing properties or site(s) with existing housing owned or controlled by FH.

Project Based Vouchers (PBV's) are contemplated to be utilized at a number of developments either in traditional Low-Income Housing Tax Credit (LIHTC) developments or through the U.S Department of Housing and Urban Development's Rental Assistance Demonstration (RAD) program. The number and location of PBV's proposed for 2023 are broken down as follows:

#### **County AMP 1 (121 Units)**

**Pinedale Apartments (41 Units)**

**Pinedale Apartments (16 Units)**

**Desoto Gardens (40 Units)**

**Marcelli Terrace (24 Units)**

#### **County AMP 2 (194 Units)**

**Del Rey Complex (30 Units)**

**Laton Apartments (20 Units)**

**Wedgewood Commons (64 Units)**

**Magill Terrace (20 Units)**

**Shockley Terrace (25 units)**

**Memorial Village (35 units)**

#### **County AMP 3**

**Sunset Terrace I (20 Units)**

County AMP 4 (216 Units)

Mendoza Terrace (48 Units)

Mendoza Terrace II (34 Units)

Firebaugh Elderly (30 Units)

Cardella Courts (32 Units)

Biola Apartments (12 Units)

Helsem Terrace (40 Units)

County AMP 6 (48 Units)

Taylor Terrace (28 Units)

San Joaquin Apartments (20 Units)

Highway City Marcelli Terrace

The proposed conversion project is comprised of existing public housing located in the Highway City area in Fresno County. The proposed project may consist of a substantial rehabilitation of the 24 residential units, new construction, and/or transfer of assistance.

Schedule:

03/2023 Tax Credit Application

12/2023 Construction Start

12/2025 Construction Completion

Corazon del Valle Commons

The proposed Huron RAD Corazon del Valle Commons projects project aims to construct 61 new units in the City of Huron and includes a transfer of assistance of 48 public housing units.

Schedule:

06/2021 Tax Credit Application

04/2022 Construction Start

09/2023 Construction Completion

Huron RAD #2

The proposed Huron RAD #2 project aims to rehabilitate or transfer assistance (totaling 24 units) in the City of Huron. The project may include transfer of assistance, demo, and/or section 18 disposition.

Schedule:

03/2023 Tax Credit Application

12/2023 Construction Start  
03/2025 Construction Completion

Firebaugh RAD

The Firebaugh RAD project is envisioned in multiple phases. The project may include up to 152 units of low-income housing with substantial rehabilitation, demolition and new construction, and/or transfer of assistance.

Schedule:

03/2023 Tax Credit Application  
12/2023 Construction Start  
12/2025 Construction Completion

La Joya Commons (34 Units)

Pinedale RAD #2

The proposed development is located in Pinedale, within the City of Fresno boundary. FH's vision for the project consists of substantial rehab of 57 scattered affordable, very-low to low-income housing apartment rentals or the new construction of units on a new parcel of land.

Schedule:

03/2023 Tax Credit Application  
12/2023 Construction Start  
12/2025 Construction Completion

Del Rey Commons

The proposed development is located in the City of Del Rey. FH's vision for the project consists of substantial rehab and/or new construction of up to 30 affordable, very-low to low-income housing apartment rentals, and 1 manager's unit and may include transfer of assistance, demo, and/or section 18 disposition.

Schedule:

03/2023 Tax Credit Application  
12/2023 Construction Start  
03/2025 Construction Completion

### Biola Commons

The proposed development is located in the town of Biola. FH's vision for the project consists of substantial rehab and/or new construction of at least 12 affordable,

very-low to low-income housing apartment rentals, and 1 manager's unit and may include transfer of assistance, demo, and/or section 18 disposition.

Schedule:

03/2023 Tax Credit Application

12/2023 Construction Start

03/2025 Construction Completion

### Reedley RAD #2

The proposed development is located in the town of Reedley. FH's vision for the project consists of substantial rehab and/or new construction of at least 20 affordable,

very-low to low-income housing apartment rentals, and 1 manager's unit and may include transfer of assistance, demo, and/or section 18 disposition.

Schedule:

03/2023 Tax Credit Application

12/2023 Construction Start

03/2025 Construction Completion

### Laton Commons

The proposed development is located in the City of Orange Cove. FH's vision for the project consists of substantial rehab and/or new construction of at least 20 affordable,

very-low to low-income housing apartment rentals, and 1 manager's unit.

Schedule:

03/2023 Tax Credit Application

12/2023 Construction Start

03/2025 Construction Completion

### Kerman Commons

The proposed development is located in the City of Kerman. FH's vision for the project consists of substantial rehab and/or new construction of 39 affordable, very-low to low-income housing apartment rentals, and 1 manager's unit.

Schedule:

03/2023 Tax Credit Application

12/2023 Construction Start

03/2025 Construction Completion

### Caruthers Commons

The proposed development is located in the town of Caruthers within the County of Fresno boundary. FH's vision for the project consists of new construction on vacant land. The site will be up 60 units of affordable housing, along with community space.

#### Schedule:

03/2023 Tax Credit Application

12/2023 Construction Start

03/2025 Construction Completion

### Wedgewood Commons RAD

The Wedgewood complex consists of 64 low-income senior units. FH envisions a rehabilitation of the property under the RAD program and/or a reconstruction effort.

#### Schedule:

03/2022 Tax Credit Application

12/2022 Construction Start

12/2023 Construction Completion

### DeSoto Gardens RAD

FH envisions the potential inclusion of the DeSoto Gardens property (40 units) in a larger redevelopment of adjacent sites (affordable housing owned by the Housing Authority of the City of Fresno), not excluding the possibility of a transfer of assistance or substantial rehabilitation. We propose substantial rehabilitation and/or new construction.

#### Schedule:

03/2023 Tax Credit Application

12/2023 Construction Start

12/2025 Construction Completion

### San Joaquin Commons/Family

The proposed development is located in the City of San Joaquin. FH's vision for the project consists of 50-80 affordable, very-low to low-income housing apartment rentals, and 1 manager's unit. We propose substantial rehabilitation and/or new construction.

#### Schedule:

03/2023 Tax Credit Application



12/2023 Construction Start  
03/2025 Construction Completion

Citrus Gardens Orange Cove

The proposed development is located in the City of Orange Cove. FH's vision for the project consists of substantial rehab and/or new construction of 30 affordable, very-low to low-income housing apartment rentals, and 1 manager's unit.

Schedule:

03/2022 Tax Credit Application  
12/2022 Construction Start  
12/2025 Construction Completion

Kingsburg Seniors Development

The proposed development is located in Kingsburg, within the County of Fresno boundary. FH's vision for the project consists of new construction of up to 60 affordable senior units along with a community building and open green space. The project will be new construction on a vacant parcel of land.

Schedule:

03/2019 Tax Credit Application  
12/2019 Construction Start  
12/2020 Construction Completion

Orchard Apartments

The proposed development is located in City of Parlier within the County of Fresno boundary. FH's vision for the project consists of rehabilitation of an existing complex. The site will be 40 units of farm labor housing, along with community space.

Schedule:

07/2018 Tax Credit Application  
03/2019 Construction Start  
03/2020 Construction Completion

Willow and Alluvial

The proposed development is located in City of Clovis within the County of Fresno boundary. FH's vision for the project consists of new construction on vacant land. The site will be up to 60 units of affordable housing, along with community space.

Schedule:

03/2020 Tax Credit Application  
12/2020 Construction Start  
12/2021 Construction Completion

Caruthers Commons

The proposed development is located in the town of Caruthers within the County of Fresno boundary. FH’s vision for the project consists of new construction on vacant land. The site will be up 60 units of affordable housing, along with community space.

Schedule:

03/2020 Tax Credit Application  
12/2020 Construction Start  
12/2021 Construction Completion

Site-based interest lists will be established for each mixed finance development.

In specific instances, PBV assistance can be awarded non-competitively and posted for public notification. These proposals can be presented at any time. These proposals will be rated on its merits and selected based on type of population being served. Owners or developers are not required to wait for publication of a Request for Proposal to present a proposal for consideration under the guidelines of non-competitive selection. However, FH must publish the award of any units under the PBV program in a newspaper of general circulation. Every effort will be made to do this within 30 days.

**22.11.2 SOLICITATION AND SELECTION OF PBV PROPOSALS**

FH procedures for selecting PBV proposals will be designed and operated to provide broad public notice of the opportunity to offer PBV proposals for its consideration. The public notice procedures will include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of FH request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties. FH policy for requesting proposals is listed below by unit type.

### **22.11.3 FH REQUEST FOR PROPOSALS FOR REHABILITATED AND NEWLY CONSTRUCTED UNITS**

FH will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals:

- *The Fresno Bee*
- *The Business Journal*

FH will post the RFP and proposal submission rating and ranking procedures on its electronic website.

Publication of its advertisement will be carried in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units that FH estimates it will be able to assist under the funding FH has made available. Proposals will be due in FH office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to FH by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

FH will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers FH's goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Promoting development of housing units serving very low income populations, such as homeless, special needs and individuals with severe mental illness.

### **22.11.4 FH REQUESTS FOR PROPOSALS FOR EXISTING HOUSING UNITS**

[24 CFR 983.51(c)]

FH will follow the same process in requesting proposals for existing housing units as described in Section 21.11.3 above, except that owner proposals will be

accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner’s obligations under the tenant-based program;
- Extent to which the project furthers FH goal for deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which units are occupied by families that are eligible to participate in the PBV program.

#### **22.11.5 FH SELECTION OF PROPOSALS: PREVIOUS COMPETITION**

FH will periodically advertise it is accepting proposals for PBV assistance from owners of units, which were competitively selected under another federal, state or local housing assistance program. Advertisements will be published in the following newspapers and trade journals:

- *The Fresno Bee*
- *The Business Journal*

In addition to, or in place of advertising, FH may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. FH will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers FH goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal compliments other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, or other development activities in a HUD-designated Enterprise Zone, Economic Community, Redevelopment Area or Renewal Community.

#### **22.11.6 FH NOTICE OF OWNER SELECTION**

[24 CFR 983.51(d)]

FH 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 will include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

Within 10 business days of FH making the selection, FH will notify the selected owner in writing of the owner's selection for the PBV program. FH will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, FH will publish its notice for selection of PBV proposals for two consecutive days, or at least one day per week for at least two consecutive weeks in the same newspapers and trade journals which were used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. FH will also post the notice of owner selection on its electronic web site.

FH will make available to any interested party its rating and ranking sheets and documents that identify the 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. FH will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner. FH will make these documents available for review at its Central Office during normal business hours.

#### **22.11.7 PROHIBITION OF EXCESS PUBLIC ASSISTANCE: SUBSIDY LAYERING REQUIREMENTS**

[24 CFR 983.55]

FH will provide PBV assistance only in accordance with HUD subsidy layering regulations and other requirements. However, a subsidy layering review is not required in the case of a HAP contract for an existing project or if a subsidy layering review has been conducted by the applicable State or local agency.

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.

FH will submit the necessary documentation to HUD for a subsidy layering review. The Authorities will not enter into an Agreement or a HAP contract until HUD (or

an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

## **22.11.8 CAP ON NUMBER OF PBV UNITS IN A PROJECT**

[24 CFR 983.56]

Project Cap: The limitation on the number of units that may be project-based in a project is the greater of 25 units or 25 percent of the units in a project.

[FR Notice 1/18/17]

In general, the FH will not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project. "Project" is defined to mean "a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land".

### Exceptions to 25 Percent per Project CAP

[FR Notice 1/18/17]

Exceptions are allowed and PBV units are not counted against the project cap if the units are exclusively for elderly families or for households eligible for supportive services available to all families receiving PBV assistance in the project or the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates. Beyond this, FH will not impose any further cap on the number of PBV units assisted per project.

In selecting families for admission to excepted units, the Management Agent must give preference to elderly or disabled families, and supportive services must be reasonably available to all families receiving PBV assistance in the project. The family does not actually have to accept and receive supportive services for the exception to apply to the unit.

### Projects not Subject to a Project Cap [FR Notice 1/18/17]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance. To qualify for the exception, the unit must:

- Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and

- In the five years prior to the date the FH either issued the RFP under which the project was selected or the FH selected the project without competition, the unit met at least one of the two following conditions:

- The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 303), Housing for Persons with disabilities (Section 811), the Rental Supplement program,

- The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811).

Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of replacement unit described in FR Notice 1/18/17.

## **22.11.9 EXCEPTED UNITS WITHIN A MULTIFAMILY PROJECT**

[FR 1/18/18]

“Excepted Units” mean units in a multifamily project that are specifically made available for qualifying families and individuals. Qualifying families and individuals are elderly or disabled or are receiving supportive services. The FH does not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered. The service can be either provided on or off site but must be reasonably available.

The types of supportive services that may be offered include, but are not limited to:

- Service Coordinator or Service Specialist;
- Adult educational, health and wellness, or skill building classes for a minimum of 36 instructional hours per year
- Health and wellness services and programs for a minimum of 40 hours of service per year;
- Licensed child care for a minimum of 20 hours per week, Monday through Friday
- After-school tutoring and homework help for a minimum of four hours per week throughout the school year;
- Special needs case managers;



- Health or behavioral health services;
- After school program for special needs school age children for a minimum of 4 hours per week.

For qualifying families in Excepted Units under contract prior to April 18, 2017, all services will be monitored annually. Families will be required to certify their participation in the supportive services, which will be verified by FH. In addition, the owner must certify annually that it continues to provide a supportive services program. The owner must also notify FH immediately once a family is no longer in compliance with their services obligation.

Management Agent will monitor the supportive services requirement regularly to ensure a qualifying family continues to reside in all excepted units.

Attendance records at supportive service classes, where required, will meet this monitoring requirement.

All families are required to certify their participation in supportive services.

Management Agent (may provide through a vendor) must certify annually that it continues to provide the supportive service program(s).

Management Agent must notify FH immediately once a family no longer meets the definition of qualifying family; (e.g., is in non-compliance with their supportive services obligation; or due to a change in family composition the family is no longer elderly or disabled).

FH Quality Assurance will audit family participation in any required supportive services attached to the excepted unit; this will be done at least annually or more often if needed.

Contracts beginning on or after April 18, 2017- the families living in units under the supportive services exception's category may but -are not required to participate in the services. Units housing households eligible for one or more supportive services the services are must be made available to all assisted residents of the project.

This exception applies to any household eligible for the supportive services and is not limited to households with a family member with a disability. The supportive services do not need to be provided by the owner or on-site but the services must be reasonably available to the families receiving PBV assistance in the project.

## 22.11.10 SITE SELECTION STANDARDS

[24 CFR 983.57]

### Compliance with PBV Goals, Civil Rights Requirements, and HQS

[24 CFR 983.57(b)]

FH will not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an Agreement or HAP contract for units on the site, unless FH 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 FH's Agency Plan and the Housing Choice Voucher's administrative plan.

In addition, prior to selecting a proposal, FH 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).

It is FH'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 Authorities will limit approval of sites for PBV housing to census tracts that have poverty concentrations of 20 percent or less.

However, FH will grant exceptions to the 20 percent standard where it is determined that the PBV assistance will compliment other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

Under no circumstances will FH approve PBV assistance in a census tract with a concentration factor greater than 75 percent of the community-wide poverty rate or forty percent, whichever is lower.

### **22.11.11 EXISTING AND REHABILITATED HOUSING SITE AND NEIGHBORHOOD STANDARDS**

[24 CFR 983.57(d)]

FH will 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, retail 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.

### **22.11.12 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 FH 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, retail and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units appropriate to the subject population; 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.

### **22.11.13 ENVIRONMENTAL REVIEW**

[24 CFR 983.58]

FH 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.). FH will not enter into an Agreement nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of an existing structure, FH is not required to undertake any environmental review before entering into a HAP contract, except to the extent such a review is otherwise required by law or regulation.

FH will not enter into an Agreement or a HAP contract with an owner, and FH, the owner, and its contractors will 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.

FH must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. FH 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.

## **22.12 DWELLING UNITS**

[24 CFR 983.101]

### Overview

The housing quality standards for PBV are essentially the same as for Tenant Based Vouchers, except the requirements for Lead-Based Paint are exchanged for the following:

### Lead-based paint

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992(42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35,subparts A, B, H, and R, apply to the PBV program.

## **22.12.1 HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES**

[24 CFR 983.102]

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. FH 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).

## **22.13 INSPECTING UNITS**

### **22.13.1 PRE-SELECTION INSPECTION**

[983.103(a)]

FH must examine the proposed site before the proposal selection date. If the units to be assisted already exist, FH 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, FH will not execute the HAP contract until the unit fully complies with HQS.

### **22.13.2 PRE-HAP CONTRACT INSPECTIONS**

[983.103(b)]

FH must inspect each contract unit before execution of the HAP contract. FH will not enter into a HAP contract covering a unit until the unit fully complies with HQS.

### **22.13.3 TURNOVER INSPECTIONS**

[983.103(c)]

**Before providing assistance to a** new family in a contract unit, FH must inspect the unit. FH will not provide assistance on behalf of the family until the unit fully complies with HQS.

### **22.13.4 BIENNIAL/ANNUAL INSPECTIONS**

[983.103(d)]

At least annually during the term of the HAP contract, FH must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, FH must re-inspect 100 percent of the contract units in the building.

### **22.13.5 OTHER INSPECTIONS**

[983.103(e)]

FH 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. FH must take into account complaints and any other information coming to its attention in scheduling inspections.

FH 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 FH supervisory quality control HQS inspections, FH should include a representative sample of both tenant-based and project-based units.

### **22.13.6 INSPECTING FH-OWNED UNITS**

[983.103(f)]

In the case of FH-owned units:

- The inspections must be performed by an independent agency as designated in this Chapter, rather than by FH.
- The independent entity will furnish a copy of each inspection report to FH and to the HUD field office.
- FH will take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by FH owner.

## **22.14 REQUIREMENTS FOR REHABILITATED AND NEWLY CONSTRUCTED UNITS**

### **22.14.1 APPLICABILITY**

[983.151]

This section applies to PBV assistance for newly constructed or rehabilitated housing. This section does not apply to PBV assistance for existing housing.



Housing selected for this type of assistance, will not at a later date be selected for PBV assistance as existing housing.

#### **22.14.2 PURPOSE OF THE AGREEMENT TO ENTER INTO HAP CONTRACT**

[983.152(b)]

In order to offer PBV assistance in rehabilitated or newly constructed units, FH must enter into an Agreement with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and FH agrees that upon timely completion of such development in accordance with the terms of the Agreement, FH will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

#### **22.14.3 CONTENT OF THE AGREEMENT**

[983.152(c)]

At a minimum, the Agreement must comply with the Housing Quality Standards and describe the following features of the housing to be developed and assisted under the PBV program:

- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Site and the location of the contract units;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;

- For rehabilitated units, the work description must include the rehabilitation work write up and, where determined necessary by FH, specifications and plans.
- For new construction units, the description must include the working drawings and specifications.

#### **22.14.4 EXECUTION OF THE AGREEMENT**

[983.153]

The Agreement must be executed promptly after FH notice of proposal selection to the selected owner. However, FH will not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, FH will not enter into the Agreement until the environmental review is completed and FH has received environmental approval.

FH 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.

#### **22.14.5 REQUIREMENTS OF DEVELOPMENT WORK**

[983.154]

##### **Labor Standards**

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. FH must monitor compliance with labor standards.

##### **Equal Opportunity**

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR Part 135. The owner must also comply with federal equal employment opportunity requirements.

##### **Disclosure of Conflict of Interest**

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.

## **22.15 COMPLETION OF HOUSING**

[983.155]

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.

### Required Evidence of Completion

At a minimum, the owner must submit the following evidence of completion to FH in the form and manner required by FH:

- 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 FH's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

FH will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. FH will specify any additional documentation requirements in the Agreement to enter into HAP contract.

## **22.16 FH ACCEPTANCE OF COMPLETED UNITS**

[983.156]

Upon notice from the owner that the housing is completed, FH 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. FH 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, FH must not enter into the HAP contract.

If FH determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, FH must submit the HAP contract for execution by the owner and must then execute the HAP contract.

## **22.17 HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

[983.201 to 983.209]

### **22.17.1 OVERVIEW**

[983.202]

FH must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

### **22.17.2 HAP CONTRACT REQUIREMENTS**

Contract Information [983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;

- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families;
- The initial rent to owner for the first 12 months of the HAP contract term.

### **22.17.3 EXECUTION OF THE HAP CONTRACT**

[983.204]

FH will not enter into a HAP contract until each contract unit has been inspected and FH has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after FH selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after FH 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.

For existing housing, the HAP contract will be executed within 10 business days of FH determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of FH 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.

### **22.17.4 TERM OF HAP CONTRACT**

[983.205; FR Notice 1/18/17]

FH will enter into a HAP contract with an owner for an initial term of no less than one year and no more than twenty (20) years.

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

FH may agree to enter into an extension at the time of the initial HAP contract or any time before expiration of the contract for an additional term of up to twenty (20) years. For example, FH may execute an initial HAP Contract good for 20 years

for project-based units, and a separate HAP Contract granting an extension of another 20 years. When determining whether or not to extend an expiring PBV contract, FH 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.

#### **22.17.5 TERMINATION BY FH**

[983.205(c); FR Notice 1/18/17]

The HAP contract must provide that the term of FH's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by FH 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, FH will 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, FH may terminate the HAP contract by 60-day notice to the owner. The termination must be implemented in accordance with HUD instructions.

#### **22.17.6 STATUTORY NOTICE REQUIREMENTS: TERMINATION BY OWNER**

[983.205(d); FR Notice 1/18/17]

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 FH.

Tenant-based assistance would not begin until the owner's required notice period ends. The FH must provide the family with a voucher and the family must also be given the option by the FH and owner to remain in their unit with HCV tenant based assistance as long as the unit complies with inspection and rent reasonableness requirements.

The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance.

The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

## **22.17.7 REMEDIES FOR HQS VIOLATIONS**

[983.207(b)]

FH will 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 FH determines that a contract does not comply with HQS, FH may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

FH 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 Chapter 10, regarding enforcing owner compliance.

## **22.18 AMENDMENTS TO THE HAP CONTRACT**

[983.207]

### **22.18.1 SUBSTITUTION OF CONTRACT UNITS**



[24 CFR 983.207(a)]

At FH's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, FH must inspect the proposed unit and determine the reasonable rent for the unit.

## **22.18.2 ADDITION OF CONTRACT UNITS**

[FR Notice 1/18/17]

FH 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.

## **22.18.3 HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES**

[983.206(c)]

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.

## **22.19 OWNER RESPONSIBILITIES UNDER THE HAP**

[983.208 to 983.209]

The owner is responsible for performing all the owner responsibilities under the Agreement and the HAP contract. 24 CFR 982.452 (Owner responsibilities) applies.

By execution of the HPA contract, the owner certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by FH, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

### **Additional HAP Requirements**

#### **Housing Quality and Design Requirements**

[983.207]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with FH 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.

FH may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

FH will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. FH will specify any special design standards or additional requirements in the invitation for PBV proposals, the Agreement, and the HAP contract.

## **22.20 TENANT SELECTION AND OCCUPANCY**

[983.251]

### **22.20.1 OVERVIEW**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the interest 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.

### **22.20.2 ELIGIBILITY FOR PBV ASSISTANCE**

[983.251(a)]

As with the tenant-based voucher program, eligibility for admission must be determined at the time of the formal application interview.

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 FH, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to FH's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

FH will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 4 (Eligibility for Admission) of this Administrative Plan.

[983.251(c)]

FH will establish and manage separate interest lists for individual projects that are receiving PBV assistance.

Applicants who will occupy units with PBV assistance must be selected from FH's interest list. FH will establish a separate interest list for PBV units, and will establish separate interest lists for PBV units in particular projects. The interest list may establish criteria or preferences for occupancy of particular units. FH will offer to

place applicants who are listed on the tenant-based interest list on the interest list for PBV assistance.

FH selects families from the interest list according to the date and time of the pre-application, unless the lottery or random selection method is used, in which case, pre-applications will be randomly selected per bedroom size from the interest list. Preferences will be applied when either method is used.

In selecting families to occupy PBV units with special accessibility features for persons with disabilities, FH must first refer families who require such accessibility features to the owner, per 24 CFR 8.26 and 100.202.

### **22.20.3 ORGANIZATION OF THE INTEREST/WAITING LIST [24 CFR 983.251 (C)]**

FH will establish a separate interest list for PBV units, and will establish separate interest lists for PBV units in particular projects. The interest list may establish criteria or preferences for occupancy of particular units. FH will offer to place applicants who are listed on the tenant-based interest list on the interest list for PBV assistance.

FH selects families from the interest list according to the date and time of the pre-application, unless the lottery or random selection method is used, in which case, pre-applications will be randomly selected per bedroom size from the interest list. Preferences will be applied when either method is used.

FH selects families in order of each site's specific needs and according to each individual site's criteria or preferences for occupancy.

In selecting families to occupy PBV units with special accessibility features for persons with disabilities, FH must first refer families who require such accessibility features to the owner, per 24 CFR 8.26 and 100.202.

FH will establish and manage separate interest lists for individual projects that are receiving PBV assistance. FH currently maintains separate waiting lists for the following PBV projects: see Appendix C.

Applicants who are selected from the interest list will be placed on the project specific waiting list and contacted by FH and/or third party to complete a full application process as units become available. Applicants will remain as "Selected" until invited to complete the full application process.

At the time of the interview, if the family household size does not meet the occupancy standards of the bedroom size they were pulled from, they will be returned to the interest list according to the appropriate bedroom size.

#### **22.20.4 PREFERENCES**

The PBV program and the tenant-based program in terms of local preferences are the same as stated in Chapter 3 of this Plan, unless the PBV Property serves a targeted population. The procedures will follow the property's management plan.

FH must provide an absolute selection preference for eligible in-place families as described in 24 CFR 983.251(b). FH will provide a selection preference:

- when required by the regulation (e.g. eligible in-place families),
- elderly families or units with supportive services or
- mobility-impaired persons for accessible units.

All are the same as defined in Chapter 3 of this Administrative Plan.

##### Preference for Services Offered

[24 CFR 983.251(d)]

FH may give preference to disabled families who need services offered at a particular project. The PHA may not, however, grant a preference to a person with a specific disability. [FR Notice 1/18/17].

#### **22.20.5 IN-PLACE FAMILIES**

[983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by FH 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 will be placed on FH's interest list even if the interest list is closed. Once the family's continued eligibility is determined (FH 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 FH 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.

## **22.20.6 REFERRED BY PBV OWNER OR FOR LIMITED PREFERENCE PBV VOUCHER ALLOCATIONS**

### PBV Owner Referral

FH will place families referred by the PBV owner on its PBV interest list in order of date and time of referral.

### Limited Preference PBV Voucher Referral

Periodically FH has the opportunity to target PBV's for special needs populations. FH would enter into a Memorandum of Understanding to provide supportive housing in collaboration with another local agency which would provide supportive services for the special population. In the Memorandum of Understanding the two organizations would identify referral criteria and set the roles needed to ensure eligibility requirements are met.

At the time the project interest list is offered, applicants on the tenant-based interest list will be given the opportunity to be added to the project interest list. Additionally referrals would come directly from the collaborating agency to be added to the project interest list. Families who meet the criteria would be given first preference for the limited preference units.

## **22.20.7 INCOME TARGETING**

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during FH's fiscal year. ELI families are those with annual incomes as defined in Section 4.10 of this Administrative Plan. To ensure this requirement is met, a FH may skip non-ELI families on the interest list in order to select an ELI family.

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

## **22.20.8 UNITS WITH ACCESSIBILITY FEATURES**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, FH must first refer families who require such features to the owner.

## **22.20.9 OFFER OF PBV ASSISTANCE**

[983.251(e)]

### Refusal of Offer

FH 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 interest list for tenant-based voucher assistance;

Deny any admission preference for which the applicant qualifies;

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

Remove the applicant from the tenant-based voucher interest list.

### **22.20.10 DISAPPROVAL BY LANDLORD**

[983.251(e) (2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection will not affect the family's position on the tenant-based voucher interest list, if applicable.

### **22.21 ACCEPTANCE OF OFFER**

[983.252]

#### Family Briefing

When a family accepts an offer for PBV assistance, FH will 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, FH must provide a briefing packet that explains how FH determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

#### Information Packet

FH will provide each family attending the briefing with a packet which contains the following information:

- (1) How FH determines the total tenant payment for a family;
- (2) Family obligations under the program; and
- (3) Applicable fair housing information.



The same information that is provided to the Tenant Based participants is provided to the PBV applicants. Refer to Chapter 8 for more information.

### Persons with Disabilities

If an applicant family's head or spouse is disabled, FH must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. FH's reasonable accommodation policy is outlined in Chapter 1 of this Administrative Plan. In addition, FH 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

FH takes 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. This policy is described in Chapter 20.

## **22.22 OWNER SELECTION OF TENANTS**

[983.253]

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)], and provide a copy to FH.

### Leasing

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by FH from FH's interest list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on FH's subsidy standards.

## **22.23 VACANCIES**

### **22.23.1 FILLING VACANCIES**

[983.254]

The owner must promptly notify FH of any vacancy or expected vacancy in a contract unit. After receiving such notice, FH must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies.

FH and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

The owner must notify FH in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

FH will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

### **22.23.2 REDUCTION IN HAP CONTRACT UNITS DUE TO VACANCIES**

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, FH 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. FH will provide the notice to the owner within 10 business days of the 120<sup>th</sup> day of the vacancy. The amendment to the HAP contract will be effective the 1<sup>st</sup> day of the month following the date of FH's notice.

### **22.24 TENANT SCREENING**

[983.255(a)]

#### **22.24.1 FH RESPONSIBILITY**

FH is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy.

FH will screen applicants prior to offering a voucher according to Chapter 4 and Chapter 15, and may deny applicants based on such screening.

FH must provide the owner with an applicant family's current and prior address (as shown in FH records) and the name and address (if known by FH) of the family's current landlord and any prior landlords.

FH will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

In addition, FH will apply the same policies regarding providing information FH may have about a family, directly to the owner as described below. A statement of FH's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family. FH must give the same types of information to all owners.

FH 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. FH will orally provide the following information (for the last 5 years, providing the information is in the tenant file) to the owner, based on documentation in its possession:

- Eviction history
- Damage to rental units
- Other aspects of tenancy history (e.g., 3-Day Notices).

#### **22.24.2 OWNER RESPONSIBILITY**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families and individuals the owner will consider the background of the proposed tenants 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.

#### **22.25 LEASE**

[983.256]

After an applicant has been selected from the interest list, determined eligible by FH, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

##### **22.25.1 FORM OF LEASE**

The tenant and the owner must enter into a written lease agreement, approved for use in the State of California that is executed 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 FH model lease.

FH will review the owner's lease for compliance with state or local law.

### **22.25.2 LEASE REQUIREMENTS**

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- The amount of any charges for food, furniture, or supportive services; and
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner.

### **22.25.3 TENANCY ADDENDUM**

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by FH (the names of family members and any FH-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.

### **22.25.4 INITIAL TERM AND LEASE RENEWAL**

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for good cause, or

refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, FH must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

### **22.25.5 CHANGES IN THE LEASE**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give FH a copy of all changes.

The owner must notify FH 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 FH and in accordance with the terms of the lease relating to its amendment. FH must re-determine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The re-determined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

### **22.26 MOVES**

[983.257 to 983.261]

#### **22.26.1 OWNER TERMINATION OF TENANCY**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program. In the PBV program, terminating tenancy for good cause does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

#### **22.26.2 TENANT ABSENCE FROM THE UNIT**

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by FH 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.

#### **22.26.3 SECURITY DEPOSITS**

The owner may collect a security deposit from the tenant.

FH will allow the owner to collect a security deposit amount that is not in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of a contract unit, the owner, subject to state and local

law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. FH has no liability or responsibility for payment of any amount owed by the family to the owner.

#### **22.26.4 OVER-CROWDED, UNDER-OCCUPIED, AND ACCESSIBLE UNITS**

[983.259]

If FH determines that a family is occupying a wrong size unit, based on FH'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, FH must promptly notify the family and the owner of this determination, and FH must offer the family the opportunity to receive continued housing assistance in another unit.

FH 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 FH's determination. FH will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project
- PBV assistance in another project
- Tenant-based voucher assistance

If FH offers the family a tenant-based voucher, FH must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by FH).

If FH 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 FH, or both, FH must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by FH.

When FH offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30 day time frame, FH will terminate the housing assistance payments at the expiration of this 30-day period.

FH 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.

#### **22.26.5 FAMILY RIGHT TO MOVE**

[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 FH. If the family wishes to move with continued tenant-based assistance, the family must contact FH to request the rental assistance prior to providing notice to terminate the lease.

Project-based participants may be eligible to move when all of the following are true: a) PBV participant must have fulfilled the project-based voucher lease for a minimum time required; typically 12 months; b) PBV participant has no outstanding debts to the owner and/or FH; and c) PBV participant has given advance notice of intent to vacate to the owner and FH.

The above policies do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, 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. A PHA may not terminate assistance if the family, with or without prior notification to the PHA, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was threatened with imminent harm from further violence. If he or she remained in the dwelling unit, 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.

If a family breaks up as a result of an occurrence of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, the

PHA may offer the victim the opportunity for continued tenant-based rental assistance.

If the family terminates the lease in accordance with these requirements, FH 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, FH 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.



## **22.26.6 EXCEPTIONS TO THE OCCUPANCY CAP**

[983.261]

FH will not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are:

- 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
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey 5-year estimates.

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 FH 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.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a qualifying family in connection with the 25 percent per building cap exception (e.g. the family does not successfully complete supportive services requirements, or due to a change in family composition or the family is no longer an elderly family or disabled), the PHA may do one of the following two options:

- Substitute the excepted unit for a non-excepted unit (if possible under 24 CFR 983.207(a)).
- Remove the unit from the PBV HAP contract and provide the family with tenant based assistance. Once the family vacates the unit may be added back to the HAP contract for eligible exception.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. FH or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

The HOTMA amendments entirely eliminate the statutory exemption from a project cap for projects that serve disabled families and modify the supportive services

exception. Previously, the statutory exception required that the family must be actually receiving the supportive services for the individual unit to be exempted from the income-mixing requirement. The new requirement provides that the project must make supportive services available to all assisted families in the project (but that the family does not have to actually accept and receive the supportive services for the exception to apply to the unit). However, projects that are using the former statutory exemptions will continue to operate under the pre-HOTMA requirements and will continue to renew their HAP contracts under the old requirements, unless the PHA and the owner agree by mutual consent to change the conditions to the HOTMA requirement. The PBV HAP contract may not be changed to the HOTMA requirement if the change would jeopardize an assisted family's eligibility for continued assistance at the project (e.g., excepted units at the project included units designated for the disabled, and changing to the HOTMA standard would result in those units no longer being eligible as an excepted unit unless the owner will make supportive services available to all assisted families in the unit.).

## **22.27 RENT TO OWNER (HOUSING ASSISTANCE PAYMENTS)**

[983.301 to 983.305]

### **22.27.1 DETERMINING RENT TO OWNER: OVERVIEW**

[983.301(a)]

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is re-determined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

### **22.27.2 RENT LIMITS**

[983.301(b)]

The rent to owner must not exceed the lowest of the following amounts:

- An amount determined by FH, 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.

### **22.27.3 USE OF FMRS, EXCEPTION PAYMENT STANDARDS, AND UTILITY ALLOWANCES**

[983.301(f)]

When determining the initial rent to owner, FH must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, FH must use the most recently published FMR and the utility allowance schedule in effect at the time of reexamination. At its discretion, FH 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 reexaminations of rent, the 30-day period immediately before the reexamination 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 standard amount for use in the PBV program.

Likewise, FH will 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.

Upon written request by the owner, FH will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or reexamination of rent. The owner must explain the need to use the previous FMR's or utility allowances and include documentation in support of the request. FH will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, FH may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or reexamination of rent, if FH determines it is necessary due to budgetary constraints.

#### **Small Area FMRS (SAFMRS) PIH 2018-01**

The usage of SAFMRs is designed to promote lease up in opportunity areas with rental assistance at a level that makes higher rent areas more affordable to voucher participants.

FH may elect to either opt-in to the usage of Small Area FMR's or set Payment Standards using Small Area FMR's in select ZIP code areas. Should the usage of SAFMRs be utilized by FH, payment standard information will be made available in briefing materials. (Also see Ch. 11.2 Setting the Payment Standards for the Voucher Program).

#### **22.27.4 REEXAMINATION OF RENT**

[983.302]

FH must re-determine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

#### **22.27.5 RENT INCREASE**

If an owner wishes to request an increase in the rent to owner from FH, it must be requested at the annual anniversary of the HAP contract. The request must be in writing and in the form and manner required by FH. FH will 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).

An owner's request for a rent increase must be submitted to FH 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

FH will 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.

#### **22.27.6 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. However, in FH's sole discretion, the HAP contract may provide that the maximum rent permitted for

a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial HAP contract covering the unit.

#### **22.27.7 NOTICE OF RENT CHANGE**

The rent to owner is re-determined by written notice by FH to the owner specifying the amount of the re-determined rent. FH notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

FH will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

#### **22.28 REASONABLE RENT**

[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 FH.

##### **22.28.1 WHEN RENT REASONABLE DETERMINATIONS ARE REQUIRED**

FH must re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- FH approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

##### **22.28.2 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, FH 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.

In the case of dwelling units receiving low-income housing tax credits (LIHTC), the rent is considered reasonable if it does not exceed the greater of (1) the rent for other LIHTC assisted units in the project not occupied by families with tenant-based assistance, or (2) the payment standard established by FH for a unit of the size involved.

### **22.28.3 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 FH. The comparability analysis may be performed by FH 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.

### **22.28.4 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, FH may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

### **22.28.5 DETERMINING REASONABLE RENT FOR FH-OWNED UNITS**

[983.303(f)]

See *Project-Based Vouchers and FH-Owner Units* of this Chapter.

### **22.29 EFFECT OF OTHER SUBSIDY AND RENT CONTROL**

[983.304]

#### **22.29.1 OTHER GOVERNMENTAL SUBSIDIES**

At its discretion, a FH may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

An insured or non-insured Section 236 project;

A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;

A Section 221(d)(3) below market interest rate (BMIR) project;

A Section 515 project of the Rural Housing Service;

A project receiving low-income housing tax credits;

Any other type of federally subsidized project specified by HUD.

#### **22.29.2 COMBINING SUBSIDY**

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

#### **22.29.3 RENT CONTROL**

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

### **22.30 PAYMENTS TO OWNER**

#### **22.30.1 HOUSING ASSISTANCE PAYMENTS FOR OCCUPIED UNITS**

[983.351]

During the term of the HAP contract, FH 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 FH agree on a later date.

Except for discretionary vacancy payments, FH will 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 FH 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.

## 22.31 VACANCY PAYMENTS

[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 FH determines that the vacancy is the owner's fault.

If FH determines that the owner is responsible for a vacancy and as a result is not entitled to keep the housing assistance payment, FH will notify the landlord of the amount of housing assistance payment that the owner must repay. FH will require the owner to repay the amount owed in accordance with Chapter 18 of this administrative plan.

At the discretion of FH, the HAP contract may provide for vacancy payments to the owner. FH may only make vacancy payments if:

- The owner gives FH 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 FH 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 FH and must provide any information or substantiation required by FH to determine the amount of any vacancy payment.

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified FH of the vacancy in accordance with the policy in this Administrative Plan regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and FH may require the owner to provide documentation to support the request. If the

owner does not provide the information requested by FH within 10 business days of the request, no vacancy payments will be made.

## **22.32 TENANT RENT TO OWNER**

[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 FH in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in FH 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 FH 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 FH. The owner must immediately return any excess payment to the tenant.

### **22.32.1 TENANT AND FH 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 FH.

Likewise, FH is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. FH is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. FH will 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.

### **22.32.2 UTILITY REIMBURSEMENTS**

If the amount of the utility allowance exceeds the total tenant payment, FH 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. FH will make utility reimbursements to the family.

## **22.33 OTHER FEES AND CHARGES**

[983.354]

### **22.33.1 MEALS AND SUPPORTIVE SERVICES**

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.

### **22.33.2 OTHER CHARGES BY OWNER**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

## **CHAPTER 23: PROJECT-BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM**

### **23.1 INTRODUCTION**

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

SECTION ONE: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

SECTION TWO: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

SECTION THREE: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

SECTION FOUR: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

SECTION FIVE: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

SECTION SIX: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

SECTION SEVEN: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

SECTION EIGHT: Payments to Owner. This part describes the types of payments owners may receive under this program.

### **SECTION ONE: GENERAL REQUIREMENTS**

#### **23.1.1 OVERVIEW AND HISTORY OF THE RAD PROGRAM**

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.
- Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:
  - Project-based rental assistance (PBRA) under HUD’s Office of Multifamily Housing Programs.
  - Project-based vouchers (PBVs) under HUD’s Office of Public and Indian Housing(PIH)

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

### 23.1.2 APPLICABLE REGULATIONS

This section discusses notices and guidance that pertain to the project-based voucher program under RAD.

<u>Project</u>	<u>Closing Date</u>	<u>RAD Notice</u>
<u>Solivita Commons</u>	<u>December 2019</u>	<u>PIH 2019-23: For projects that closed on or after September 5, 2019.</u>
<u>The Monarch at Chinatown</u>	<u>August 2020</u>	
<u>Alegre Commons</u>	<u>December 2020</u>	
<u>Corazon del Valle commons</u>	<u>April 2022</u>	
<u>The Arthur at Blackstone</u>	<u>May 2022</u>	
<p>Fresno Housing does not have projects governed by either Notice PIH 2012-32, REV-2 or REV-3</p> <p>PIH 2012-32 REV-3: For projects that the PHA was seeking conversion, including having a CHAP issued, or closed a project between January 12, 2017 and September 4, 2019.</p> <p>PIH 2012-32 REV-2: For projects that the PHA was seeking conversion, including a CHAP issued, or closed a project prior to January 12, 2017.</p>		

### 23.1.3 TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

This chapter of the administrative plan closely follows the PBV program regulations. As a result, there are topics explicitly discussed in this chapter even though the RAD PBV rules and resulting policies are the same as those for the tenant-based voucher program (e.g., abatement of HAP, denial of admission, utility reimbursements).

On the other hand, there are many topics that are not covered in this chapter because they are not explicitly mentioned under RAD PBV regulations, notices, or guidance; yet it must be made clear what policies the PHA will follow for the RAD PBV program (e.g., processing reexaminations, fair housing, program integrity).

This policy is intended to minimize the duplication of policies that are the same for the tenant-based voucher and RAD PBV programs, and make clear to PHA staff, owners, and participants that unless prohibited by program regulations or

otherwise stated in this chapter, the PHA policies related to tenant-based vouchers also apply to RAD PBV assistance.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

#### **23.1.4 RELOCATION REQUIREMENTS**

This section describes the relocation requirements for projects that have applied for conversion of assistance under the first component of RAD after and prior to November 10, 2016.

**For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016 or later, the following applies [Notice PIH 2016-17]:**

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations



may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.

- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.
- Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.
- If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.
- Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:
  - Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
  - The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
  - Income limit eligibility requirements associated with the LIHTC program or another program; and
  - Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.
- Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if

the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

- In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.
- Alternative housing options may involve a variety of housing options, including but not limited to:
  - Transfers to public housing
  - Admission to other affordable housing properties subject to the applicable program rules
  - Housing choice voucher (HCV) assistance
  - Homeownership programs subject to the applicable program rules
  - Other options identified by the PHA

However, for projects that applied for conversion prior to November 10, 2016, the following applies [Notice PIH 2014-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. While the PHA is not required to have a written relocation plan, HUD strongly encourages

PHAs to prepare one. Appendix I of Notice PIH 2014-17 contains recommended contents for a relocation plan.

- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

### **23.1.5 EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; NOTICE PIH 2016-17]**

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the *RAD Fair Housing, Civil Rights, and Relocation Notice* [Notice PIH 2016-17] for more information.

## **SECTION TWO: PBV PROJECT SELECTION**

### **23.2.1 OVERVIEW**

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

### **23.2.2 OWNERSHIP AND CONTROL [NOTICE PIH 2019-23]**

For projects governed by Notice PIH 2019-23, the following language applies:

- Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself). To avoid this situation, the PHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of the PHA (including to a “single-purpose entity” that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) The PHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between the PHA (as the contract administrator) and the PHA’s related entity (as the owner for HAP contract purposes). Note that in the second scenario, both the PHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].
- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that the PHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.
- Control may be established through the terms of the project owner’s governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

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### **23.2.3 PHA-OWNED UNITS [24 CFR 983.59, FR NOTICE 1/18/17, AND**

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## **NOTICE PIH 2017-21]**

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The definition of *ownership or control* provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of *PHA-owned* under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of *ownership or control* but may not be considered PHA-owned for purposes of requiring an independent entity.

The independent entity that performs the program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

### PHA Policy

If units converted to PBV under RAD are PHA-owned housing, the PHA will use Affordable Housing.com, formerly known as GoSection8.com for rent reasonableness rent-setting, and Housing Quality Inspections will be conducted by Sterling, LLC as the HUD-approved independent entities.

## **23.2.4 SUBSIDY LAYERING REQUIREMENTS [NOTICE PIH 2019-23]**

### **For projects governed by Notice PIH 2019-23, the following language applies:**

- In the case of a PHA that will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects though the conversion. However, the PHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or successor notice regarding the administrative

activities required to terminate the ACC if it has no plans to develop additional public housing.

- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- Following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

### **23.2.5 PBV PERCENTAGE LIMITATION AND UNIT CAP [NOTICE PIH 2019-23 PAGE 52]**

#### **PBV Percentage Limitation**

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

#### **Unit Cap Limitation**

When HUD published REV-3 of Notice PIH 2012-32, the cap on the number of assisted units in each project was eliminated. Under the standard PBV program the cap is set at the greater of 25 units or 25 percent of the units in the project. HUD is waiving this requirement, and projects governed by Notice PIH 2019-23 and Notice PIH 2012-32, REV-3 have no cap on the number of units that may receive PBV assistance in a project.

### **23.2.6 SITE SELECTION STANDARDS [NOTICE PIH 2019-23; NOTICE PIH 2016-17]**

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Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentrating of poverty and expanding housing and economic opportunity for existing housing sites.

To facilitate the uniform treatment of residents and units, and non-RAD PBV units located in the same project are subject to the terms of this provision.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

### **23.2.7 ENVIRONMENTAL REVIEW [NOTICE PIH 2019-23; ENVIRONMENTAL REVIEW REQUIREMENTS FOR RAD CONVERSIONS, MARCH 2019]**

The financing plan includes a requirement for an environmental review. HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted no later than the applicant's financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2019-23. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.

## **SECTION THREE: DWELLING UNITS**

### **23.3.1 OVERVIEW**

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

### **23.3.2 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); Notice PIH 2019-23]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, subparts A, B, H, and R, apply to the PBV program.

**23.3.3 HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES  
[NOTICE PIH 2016-17]**

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.

Federal accessibility requirements apply to all conversions, whether they entail new construction, alterations, or existing facilities. 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 24 CFR part 8. The PHA 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)

**23.3.4 INSPECTING UNITS**

This section identifies special inspection requirements for the PBV program including initial, turnover, annual/biennial, and other inspections. In addition, it explains requirements related to the inspection of PHA-owned units.

**Initial Inspection [RAD Quick Reference Guide; Notice PIH 2019-23]**

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing



rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC).

**Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA 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 PHA 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.

**Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contracts units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA 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 PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

**Inspecting PHA-Owned Units [24 CFR 983.103(f); Notice PIH 2017-21]**

In the case of PHA-owned units, the inspections must be performed by an independent entity designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

**SECTION FOUR: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

**23.4.1 OVERVIEW [PBV QUICK REFERENCE GUIDE 10/14]**

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment

to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

#### **23.4.2 HAP CONTRACT REQUIREMENTS**

##### **Contract Information [PBV Quick Reference Guide 10/14; Notice PIH 2019-23]**

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

The distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

##### **Execution of the HAP Contract [RADBlast! 7/11/16]**

When the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract.

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

##### **Term of HAP Contract [Notice PIH 2019-23]**

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year

of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which permits a minimum term of one year, as well as 24 CFR 983.205(a), which governs the contract term.

**Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]**

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

**Mandatory Contract Renewal [Notice PIH 2019-23]**

By statute, upon contract expiration, the agency administering the vouchers shall offer, and the PHA shall accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

**Remedies for HQS Violations [24 CFR 983.208(b)]**

The PHA may not make any HAP payment to the owner for a contract unit during any period for which the unit does not comply with HQS. If the PHA determines that a contract unit does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

The PHA will abate and terminate PBV HAP contracts for noncompliance 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.

**23.4.3 AMENDMENTS TO THE HAP CONTRACT**

### **Floating Units [Notice PIH 2019-23]**

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among unoccupied units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in the quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

PHA Policy: FH may float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

### **Reduction in HAP Contract Units [Notice PIH 2019-23]**

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

#### **23.4.4 HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 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 date for all units under a particular HAP contract.

#### **23.4.5 OWNER'S RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]**

- When the owner executes the HAP contract, he or she certifies that at such execution and at all times during the term of the HAP contract:
- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

#### **23.4.6 VACANCY PAYMENTS [24 CFR 983.352(B)]**

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to

owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

PHA Policy - The PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain the amount of the vacancy payment and the period for which the owner will qualify for these payments.

## **SECTION FIVE: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **23.5.1 OVERVIEW**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### **23.5.2 PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [NOTICE PIH 2019-23]**

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

For the RAD PBV program, in-place family means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

### **23.5.3 ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(A) AND (B)]**

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA 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.

### **23.5.4 ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(C); PIH 2019-23]**

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants will have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The PHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement or complaint brought by HUD.

The PHA will assess any changes in racial, ethnic or disability-related tenant composition at each PHA site that may have occurred during the implementation

of the site-based waiting list, based on confirmed and accurate PIC occupancy data. At least every three years, the PHA will use independent testers to assure that the site-based system is not being implemented in a discriminatory manner.

The PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Fresno Housing's Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Appendix A).

### **23.5.5 SELECTION FROM THE WAITING LIST [24 CFR 983.251(C)]**

FH must provide an absolute selection preference for eligible in-place families as described in 24 CFR 983.251(b). FH will provide a selection preference:

- when required by the regulation (e.g. eligible in-place families),
- elderly families or units with supportive services or
- mobility-impaired persons for accessible units.

All preferences are the same as defined in Chapter 3 of this Administrative Plan.

Preference for Services Offered

[24 CFR 983.251(d)]

FH may give preference to disabled families who need services offered at a particular project. The PHA may not, however, grant a preference to a person with a specific disability. [FR Notice 1/18/17].

### **23.5.6 OFFER OF PBV ASSISTANCE**



### **Refusal of Offer [24 CFR 983.251(e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing the applicant from the tenant-based voucher waiting list

### **Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

### **Acceptance of Offer [24 CFR 983.252]**

#### **Family Briefing**

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

#### **Persons with Disabilities**

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available. In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

#### **Persons with Limited English Proficiency**

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

### **23.5.7 OWNER SELECTION OF TENANTS [24 CFR 983.253]**

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.

**Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

**Filling Vacancies [24 CFR 983.254(a)]**

Refer to Chapter 22.31 Vacancy Payments: The owner must follow the Vacancy Payment policy in Chapter 22, Section 31 (22.31)

**23.5.8 TENANT SCREENING [24 CFR 983.255]**

**PHA Responsibility**

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

The PHA 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 PHA 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
- Compliance with other essential conditions of tenancy

**SECTION SIX: OCCUPANCY**

**23.6.1 OVERVIEW**

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

**23.6.2 LEASE [24 CFR 983.256]**

The tenant must have legal capacity to enter into a lease under state and local law. Legal capacity means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

### **Lease Requirements [24 CFR 983.256(c); Notice PIH 2019-23]**

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.
- The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD

### **Tenancy Addendum [24 CFR 983.256(d)]**

The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

### **Initial Term and Lease Renewal [24 CFR 983.256(f); PBV Quick Reference Guide 10/14]**

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause

- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

**Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

**Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2019-23]**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons as an owner may in the tenant-based voucher program (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.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural

rights must be included in the owner's lease as well as the PHA's administrative plan. In addition to the regulations at 24 CFR

983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease, which may not be less than:

- A reasonable period of time, but not to exceed 30 days:
- If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

These provisions apply to non-RAD PBV units located in the project as well.

**Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]**

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, 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; Notice PIH 2019-23]**

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. The amount of rent the family pays to the owner in this situation differs under REV-2 and REV-3 of Notice PIH 2012-32. Under REV-2, the family will pay with owner an amount equal to their TTP. Under REV-3 of the Notice, the family will pay the owner the lower of the family's TTP, less the utility allowance, or any applicable maximum rent under LIHTC regulations. Under both notices, the family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as

compliance with the HQS requirements, apply as long as the unit is under HAP contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

The PHA will not request a waiver from HUD to allow families whose TTP initially exceeds gross rent to occupy units.

If a participating family who was admitted after the RAD conversion receives zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

**Security Deposits [24 CFR 983.259; PBV Quick Reference Guide 10/14]**

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

**23.6.3 PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [NOTICE PIH 2019-23]**

This section discusses public housing FSS participants at the time of conversion to RAD PBV.

Current PH FSS participants will continue to participate in the PHA's FSS program, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA) to serve those FSS participants who live in units converted to RAD and who will as a result

be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a nonprofit or local resident association and this consequence of a RAD conversion may impact those entities.

Any non-RAD PBV units located in the same project are also subject to these requirements

#### **23.6.4 RESIDENT PARTICIPATION AND FUNDING [NOTICE PIH 2019-23]**

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

#### **23.6.5 MOVES**

##### **Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2019-23]**

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the



PHA must offer the family the opportunity to receive continued housing assistance in another unit.

#### PHA Policy

The PHA 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 PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project; PBV assistance in another project; and Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit of accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

#### PHA Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member

#### **Family Right to Move [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based

assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

### **Choice Mobility [Notice PIH 2019-23]**

#### **When may the family request a choice mobility voucher?**

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

#### **How will the PHA maintain the waiting list if no vouchers are available when families request choice mobility?**

The PHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

#### **Turnover Cap**

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a

turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

**Will the PHA establish a turnover cap for choice mobility?**

The PHA will not establish a choice mobility cap, however, reserves the right to reevaluate when it approaches its 20 percent program cap.

**Emergency Transfers under VAWA [Notice PIH 2017-08]**

HUD requires that the PHA include policies that address when a victim of domestic violence, dating violence, sexual assault, or stalking 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.

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, the PHA will provide several options for continued assistance in accordance with its VAWA Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (See Appendix A).

**23.6.6 REEXAMINATIONS [PBV QUICK REFERENCE GUIDE 10/14]**

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

**23.6.7 EARNED INCOME DISALLOWANCE [NOTICE PIH 2019-23]**

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the

provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

### **23.6.8 RESIDENTS' PROCEDURAL RIGHTS [NOTICE PIH 2019-23]**

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV requires that PHAs provide adequate written notice of termination of the lease, which is:

- A reasonable period of time, but not to exceed 30 days:
- If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

### **23.6.9 INFORMAL REVIEWS AND HEARINGS [NOTICE PIH 2019-23]**

This section describes the circumstances under which residents in converted projects have the right to request informal hearings and the requirements concerning such hearings. **No policy decisions are required.**

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v) an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV

requirements that adversely affect the resident's rights, obligations, welfare, or status.

- For any hearing required under 24 CFR 982.555(a)(1)(i)–(v), the contract administrator will perform the hearing in accordance with Chapter 19, Informal Hearings, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v). (See Chapter 19)

The owner must provide an opportunity for an informal hearing before an eviction.

## **SECTION SEVEN: DETERMINING CONTRACT RENT**

### **23.7.1 INITIAL CONTRACT RENTS [NOTICE PIH 2019-23]**

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current

funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD.

Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contact rent, the initial rents are set at the lower of:

- An amount determined by the PHA, not to exceed 110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance
- The reasonable rent
- The rent requested by the owner

### **23.7.2 ADJUSTING CONTRACT RENT [NOTICE PIH 2019-23; PBV QUICK REFERENCE GUIDE 10/14]**

Contract rents will be adjusted annually only by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(l) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the

reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent, with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.

At least 120 days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to the PHA administering the PBV assistance (or the independent entity). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.

### **Rent Decrease**

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

### **23.7.3 UTILITY ALLOWANCES [PIH 2019-23; PBV QUICK REFERENCE GUIDE 10/14]**

**What utility allowance will the PHA use for RAD PBV developments?**

The PHA will use site-specific utility allowances unless otherwise noted in the management plan. The site-specific utility allowance would apply to any non-RAD PBV units in the project as well.

**23.7.4 REASONABLE RENT [24 CFR 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract except to correct errors, or additional subsidy to the property, or to realign utility responsibilities.

**How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

**Comparability Analysis**

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project- based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

**PHA-Owned Units**

For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

**SECTION EIGHT: PAYMENTS TO OWNER**

**23.8.1 HOUSING ASSISTANCE PAYMENTS**

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During



the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments

### **23.8.2 VACANCY PAYMENTS [24 CFR 983.352]**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault. The PHA will require the owner to repay the amount owed in accordance with the policies in Chapter 22. Refer to Chapter 22.31 Vacancy Payments: The owner must follow the Vacancy Payment policy in Chapter 22, Section 31 (22.31)

### **23.8.3 TENANT RENT TO OWNER [24 CFR 983.353; NOTICE PIH 2019-23]**

#### **Initial Certifications [Notice PIH 2019-23]**

This section clarifies the amount that will be used to determine tenant rent on the family's initial certification.

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent

payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant

**Initial Certifications [Notice PIH 2019-23]**

For the initial certification, the PHA will use the family’s public housing tenant rent (reflected on line 10f of the family’s most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. The PHA will use this amount until the effective date of the earlier of the family’s first regular or interim recertification following the conversion. At that point, the PHA will use the family’s TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

**Tenant and PHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

**Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero. The PHA will make utility reimbursements directly to the family.

**23.8.4 PHASE-IN OF TENANT RENT INCREASES [NOTICE PIH 2019-23]**

The PHA will use the family’s public housing tenant rent (reflected on line 10f of the family’s most recent 50058) at the date of conversion to calculate the family’s tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP. (If the family was paying flat rent

immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 3: Year 3 AR and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

### **23.8.5 OTHER FEES AND CHARGES [24 CFR 983.354]**

#### **Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

#### **Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

## **CHAPTER 24: PROGRAM INTEGRITY**

### **24.1 INTRODUCTION**

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Fraud and abuse by a participant or applicant therefore, may constitute an intentional misrepresentation of income, assets, and allowances, or intentional misrepresentation of family composition or initiating and participating in bribes or other illegal activities. Intentional may mean a claim that a participant or applicant *knows or has reason to know* is false, fictitious, or fraudulent. *Knows or has reason*

*to know* may mean a person acts in deliberate ignorance of the truth or acts in reckless disregard of the truth or falsity of the claim or statement.

## **24.2 CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD**

FH does not intend to undertake an inquiry or an audit of a participant family arbitrarily. FH's expectation is that families will comply with HUD requirements, provisions of the lease, and other program rules. FH staff will make an effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, FH has a responsibility to HUD, to the community, and to eligible families in need of housing assistance, to monitor tenants' lease obligations for compliance and, when indicators of possible abuse come to FH's attention, to investigate such claims.

FH may initiate an investigation of a participant family in the event of one or more of the following circumstances:

Referrals, Complaints, or Tips: Referrals from other agencies, companies or persons which are received by mail, email, by telephone or in person, which allege that a participant family is in noncompliance with, or otherwise violating the lease or the program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable

Internal File Review: If FH staff discovers (as a function of a (re)certification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, FH's knowledge of the family, or is discrepant with statements made by the family.

Verification or Documentation: If FH receives independent verification or documentation, which conflicts with representations in the participant family file (such as public record information, credit bureau reports, or reports from other agencies).

## **24.3 STEPS TO HELP PREVENT PROGRAM ABUSE AND FRAUD**

Management and program staff utilize various methods and practices (listed below) to help prevent program abuse, noncompliance, and willful violations of program rules by applicants and participant families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by participant families.

- Things You Should Know (HUD-1140-OIG): This program integrity bulletin

(created by HUD's Inspector General) will be furnished and explained to all participant families / applicants to promote understanding of program rules, and to clarify FH's expectations for cooperation and compliance.

- **Program Orientation Session:** Mandatory orientation sessions will be conducted by FH staff for all prospective participant families either prior to or upon execution of the lease. At the conclusion of all Program Orientation Sessions, the family representative will be required to sign a "Things You Should Know" (HUD-1140-OIG) form to confirm that all rules and pertinent regulations were explained to him/her regarding fraud and abuse.
- **Participant Family Counseling:** FH staff will provide participant family counseling as a part of the recertification interview in order to clarify any confusion pertaining to program rules and requirements.
- **Use of Instructive Sign and Warnings:** Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.
- **Review and Explanation of Forms:** During interviews, when such are conducted, staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

#### **24.4 STEPS TO DETECT PROGRAM ABUSE AND FRAUD**

FH staff will be trained to maintain a high level of alertness to indicators of possible abuse and fraud by assisted families.

**Quality Control File Reviews.** Prior to initial certification, and at the completion of all subsequent re-certifications, each family file will be reviewed. Such reviews may include, but are not limited to:

- Changes in reported Social Security Numbers or dates of birth.
- Authenticity of file documents.
- Ratio between reported income and expenditures.
- Review of signatures for consistency with previously signed file documents.
- Assurance that verification of all income and deduction is present.

**Observation.** Management and program staff will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income and assets.

**Public Record Bulletins.** Reviewed by management and staff.

**State Wage Data Record Keepers.** Inquiries to State Wage and Employment

record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

**Credit Bureau Inquiries**. Credit Bureau inquiries may be made in the following circumstances:

- Application Process.
- Annual Re-certification/Interim
- When an allegation is received by FH wherein unreported income sources are disclosed.
- When a family's expenditures exceed his/her reported income, and no plausible explanation is given.

**Enterprise Income Verification (EIV) Inquiries**. Enterprise Income Verification is a system that enables PHAs to verify participant reported income and identify households that may have under reported the households' annual income. EIV inquiries may be made in the following circumstances:

- Annual Re-certification.
- Interim Recertification
- When an allegation is received by FH wherein unreported income sources are disclosed.
- When a family's expenditures exceed his/her reported income, and no plausible explanation is given.

#### **24.5 FH'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD**

FH staff will encourage all families to report suspected abuse to FH. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. They will only review allegations, which contain one or more independently verifiable facts.

### **Preliminary File Review**

An internal file review will be conducted to determine if the subject of the allegation is a participant family of a Housing Programs Department assisted program and, if so, to determine whether or not the information reported has been previously disclosed by the family.

It will then be determined if FH is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

### **Conclusion of Preliminary Review**

If, at the conclusion of the preliminary file review, there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, FH staff will initiate an investigation to determine if the allegation is true or false.

### **Interviews with Head of Household and/or Family Members**

FH staff person will discuss the allegation (or details thereof) with the head of household and/or family members by scheduling an appointment at FH's Central Office. If necessary, an additional staff person may attend such interviews. If appropriate, current consent for release of information forms will be obtained to assist in FH review.

### **Enterprise Income Verification (EIV) Inquiries**

FH will conduct Enterprise Income Verification inquiries to identify households that may have under reported their household's annual income.

## **24.6 HOW FH REVIEWS ALLEGATIONS OF ABUSE AND FRAUD**

If FH determines that an allegation or referral warrants follow-up, FH staff will conduct the review. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, FH will ensure, where required, that a written authorization from the program participant for the release of information has been obtained.

Credit Bureau Inquiries (CBIs) In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity which conflicts with the reported income of the family.

IRS Request for IRS Returns or W-2's may be required.

Verification of Credit In cases where the financial activity conflicts with file data, a

Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.

Employers and Ex-Employers Employers or ex-employers may be contacted to verify wages, which may have been previously undisclosed or misreported.

Neighbors/Witnesses Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to FH's review.

Other Agencies Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records If relevant, FH will review public records kept in any jurisdictional courthouse or county recorder's office. Examples of public records which may be checked are: real estate, marriage, and divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

#### **24.7 PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY FH**

Documents and other evidence obtained by FH during the course of an investigation. Will be considered "work product" and will be kept in a separate "work file." The work file will be kept locked. Such cases under review will not be discussed among FH staff unless they are involved in the process, or have information, which may assist in the investigation.

FH will maintain a Fraud Database System (FDS), which will document the status of the cases and additional information in order to provide a tracking device for all fraud cases. Access of the FDS will be limited to the Executive Director, Chief of Staff, the Senior Manager of Housing Programs, and/or their designees.

In addition, FH will track all repayment agreements resulting from an investigation to ensure families are staying current on their repayment agreements.

#### **24.8 EVALUATION OF THE FINDINGS**

If it is determined that a program violation has occurred, FH staff will review the facts to determine:

- The type of violation (non-compliance, fraud).
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the tenant?
- If the family is eligible for continued assistance.





### **Intentional Misrepresentations**

When a family falsifies, misstates, omits or otherwise misrepresents a material fact, an evaluation will determine whether or not:

- The family had knowledge that his/her actions were wrong, and
- That the family willfully violated a program requirement, a Family Obligation, or committed a serious violation of the lease.

### **Knowledge that the Action or Inaction Was Wrong**

This will be evaluated by determining if the family was made aware of program requirements and prohibitions. The family's signature on various certifications, briefing certificate, Personal Declaration and *Things You Should Know* are adequate to establish knowledge of wrongdoing.

### **The Family Willfully Violated the Law**

Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the family of the misrepresentation.
- That the act was done repeatedly.
- If a false name or Social Security Number was used.
- If there were admissions to others of the illegal action or omission.
- That the family omitted material facts, which were known to them (e.g., employment of self or other household member).
- That the family falsified, forged or altered documents.
- That the family conveyed and certified to statements during a rent (re)determination which were later independently verified to be false.

## **24.9 NOTIFICATION OF INVESTIGATION RESULTS**

The family will be notified by mail and/or email of the proposed action no later than ten (10) business days after the conclusion of the Family Conference advising the family that:

- Fraud or misrepresentation was found, and intent to terminate assistance will begin
- Fraud or misrepresentation was found, and restitution is due to FH.

Where due process is required, the notice to the family will comply with the policy in the Appeals/Grievance chapter of this Plan giving the family 10 business days by which to request an appeal. If the family does not reply in this timeframe, FH will proceed to issue the Final Termination Notice.

## **24.10 DISPOSITIONS OF CASES INVOLVING MISREPRESENTATIONS**

In all cases of misrepresentations involving efforts to recover monies owed, FH may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Civil Remedies: FH may:

- Terminate tenancy and demand payment of restitution in full.
- Terminate assistance and execute an administrative repayment agreement in accordance with FH's Repayment Policy.
- Terminate assistance and/or pursue restitution through civil litigation.
- Terminate assistance and seek recovery through garnishment of wages or other forms of collection.
- Permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with FH's repayment policy.

Criminal Referral: If FH believes that the case meets the criteria established by FH for prosecution, FH may refer the case to other enforcement agencies.

### **Termination by FH**

In any event, and at the sole discretion of FH, FH may terminate rental assistance for a material breach of the application for discovery of material false statements or fraud, including but not limited to misrepresentation of facts, omitted pertinent information, or failure to inform Management of information it requires for an annual re-certification or interim adjustments, by the family or family member in connection with an application for assistance, with re-certification, or reexamination of income.

## **24.11 FRAUD AND PROGRAM ABUSE RECOVERIES**

[24 CFR 982.163; 24 CFR 792.202; 24 CFR 982.555]

FH may retain a portion of program fraud losses that FH recovers from a family or owner through litigation, court order, or a repayment agreement.

FH 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. Regulations at 24 CFR 792.202 permit FH to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or

- Reasonable and necessary costs that FH 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.

If HUD incurs costs on behalf of FH related to the collection, these costs must be deducted from the amount retained by FH.

#### **24.12 OWNER-CAUSED ERROR OR PROGRAM ABUSE**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

#### **24.13 OWNER REIMBURSEMENT TO FH**

In all cases of overpayment of subsidy caused by the owner, the owner must repay to FH any excess subsidy received. FH may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, FH may allow the owner to pay in installments over a period of time.

In cases where the owner has received excess subsidy, FH will require the owner to repay the amount owed in accordance with the policies in Chapter 18.

#### **24.14 PROHIBITED OWNER ACTIONS**

An owner participating in the HCV program must not:

- Make any false statement to FH [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:

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by FH
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge

- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to FH Board of Commissioners, employees, contractors, or other FH representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to FH
- Residing in the unit with an assisted family

#### **24.15 REMEDIES AND PENALTIES PERTAINING TO THE OWNER PROGRAM ABUSE**

When FH determines that the owner has committed program abuse, FH 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 18.
- Terminate the HAP contract (See Chapter 14).
- Bar the owner from future participation in any FH programs.
- Refer the case to state or federal officials for criminal prosecution as described in this chapter.

## CHAPTER 25: EIV SECURITY POLICIES AND PROCEDURES

### 25.1 PRIVACY PROTECTION POLICY

FH accesses upfront income verification data through HUD's Enterprise Income Verification (EIV) System. FH 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*. FH has adopted and implemented EIV security procedures required by HUD as described in this chapter.

EIV tenant data will be used only to verify a resident's eligibility for participation in the Housing Choice Voucher Program and Low Income Public Housing to determine the level of assistance for which tenant is eligible.

### 25.2 PRIVACY ACT

Data provided via the EIV System will be protected to ensure that information is used only for official purposes and not disclosed in any way that would violate the privacy of the individuals represented in the system data. Privacy of data and data security for computer systems are covered by a variety of Federal laws and regulations. The Privacy Act of 1974 as amended, 5 U.S.C. 552(a) is one such regulation.

Appendix A of the Housing Authorities of the City and County of Fresno EIV Security Policies and Procedures manual is a summary of the safeguards of the Privacy Act.

In compliance with HUD requirements, FH will implement three types of safeguards, **technical safeguards, administrative safeguards, and physical safeguards**.

### 25.3 TECHNICAL SAFEGUARDS

The purpose of the Technical Safeguards is to:

- Reduce the risk of a security violation related to the EIV system's software, network, or applications
- Identify and authenticate all users seeking access to the UIV data
- Monitor the user activity on the EIV system

Description of the Technical Safeguards includes two types of controls built into the EIV system:

- User Identification and Authentication
- Each user is required to have their own User ID and Password
- The User ID identifies the program administrators and tenant information that the user is authorized to access
- Passwords are encrypted and the password file is protected from unauthorized access
- The system forces all users to change their password every 90 days and limits the reuse of previous passwords
- After three unsuccessful attempts to log in, the User ID is locked and the user has to contact the PIH Security Administrator or the PIH User Administrator for further instructions.
- Online User Alerts
- Online Warning messages that inform user of the civil and criminal penalties associated with unauthorized use of the UIV data

#### **25.4 PHYSICAL SAFEGUARDS**

The purpose of Physical Safeguards is to:

- Provide barriers between unauthorized persons and documents containing private data and computer media containing files that contain private data
- Provide immediate notification, noticeable under normal operating conditions, if the barrier is penetrated by unauthorized persons
- Prevent viewing or sensing of private information by any person by any means from outside the area confined by the barrier

Physical Safeguards

- Locked and monitored buildings, offices, or storage rooms
- Locked and monitored metal file cabinets
- Designated secure areas and equipment
  - Security rooms or locked office space with limited (minimum required) points of entry (e.g., doors)
  - Security rooms or locked office space with limited (minimum required) means of entry (e.g., keys)
  - Restricted areas with prominently posted signs or other indicators



identifying them and limited points of entry

- Physical and administrative means for monitoring access to the secure areas and access and use of the protected data
- Restricted use printers, copiers, facsimile machines, etc.
- Secure computer systems and output
- Retrieve all computer printouts as soon as they are generated so that UIV data is not left lying unattended in printers
- Avoid leaving a computer unattended with UIV data displayed on the screen
- Staff is prohibited from downloading UIV data information into computer or a CD.
- Secure disposal of UIV information
  - It is the FH's policy and procedures to shred all UIV information upon purging tenant file.

## **25.5 ADMINISTRATIVE SAFEGUARDS**

Purposes of the administrative safeguards:

- Ensure all users who have access to EIV data have an Access Authorization form signed by the Executive Director of the Housing Authority on File
- Ensure all users who access the EIV system have a current signed Rules of Behavior and User Agreement on file
- Conduct quarterly reviews of all User IDs to determine if the user still has a valid need to access the EIV data, and
- Ensure the access rights are modified or revoked as appropriate.

The PIH Security Administrator and the PIH User Administrator will maintain the following security records and forms:

- EIV Rules of Behavior and User Agreement forms
- EIV Access Authorization Forms
- EIV Disposal records list
- EIV Security violation information
- Key control logs for secure areas or filing cabinets
- EIV Security Awareness Training records
- Records of internal audits to ensure that the Form HUD-9886 has been

signed by each adult member of the household and is kept in the Confidential Tenant File.

- A record of all users who have approved access to EIV data including the date the access was granted and the date access was terminated
- Monitor User Session and Activity Report
- Monitor the Tenant Data Access Audit Report

## **25.6 CONDUCTING SECURITY AWARENESS TRAINING**

Conducting security awareness training will:

- Ensure that all users of UIV data receive training in UIV security policies and procedures at the time of employment and at least annually afterwards
- Maintain a record of all personnel who have attended training sessions
- Communicate security information and requirements to appropriate personnel using various methods including discussions at group and managerial meetings and security bulletins posted throughout the work areas
- Distribute all User Guides and Security Procedures to personnel using UIV data

## **25.7 REPORTING OF PROPER DISCLOSURES**

These security violations may include the disclosure of private data as well as attempts to access unauthorized data and the sharing of User IDs and passwords. Upon the discovery of a possible improper disclosure of UIV information or another security violation by a program administrator employee or any other person, the individual making the observation or receiving the information should contact the PIH Security Administrator or the PIH User Administrator. The Security Administrator or the User Administrator or designated staff should document all improper disclosures in writing providing details including who was involved, what was disclosed, how the disclosure occurred, and where and when it occurred regardless if the security violation was intentional or unintentional.

The following contacts should be made:

- The program administrator security officer should contact and provide FH Executive Director or the designee with the written documentation; and
- FH Executive Director or the designee should provide the HUD Field Office Public Housing Director with the written documentation

## **25.8 ENFORCEMENT**

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

## **25.9 SAFEGUARDS PROVIDED BY THE PRIVACY ACT**

The Privacy Act provides safeguards for individuals against invasion of privacy by requiring Federal agencies, except as otherwise provided by the law or regulation to:

- Permit individuals to know what records pertaining to them are collected, maintained, used or disseminated;
- Allow individuals to prevent records pertaining to them, obtained for a particular purpose from being used or made available for another purpose without their consent;
- Permit individuals to gain access to information pertaining to them, obtain a copy of all or any portions thereof, and correct or amend such records;
- Collect, maintain, use or disseminate personally identifiable information in a manner that ensure the information is current and accurate, and that adequate safeguards are provided to prevent misuses of such information;
- Permit exemption from the requirements of the Act only where an important public policy need exists as determined by specific statutory authority; and
- Be subject to a civil suit for any damages that occur as a result of action that violates any individual's rights under this Act.

## CHAPTER 26: HOMELESS INITIATIVE PROGRAMS AND PARTNERSHIPS

The Housing Authority of the City of Fresno (FH) periodically has the opportunity to either apply for or partner with community agencies to receive targeted funding for special populations. The programs covered in this chapter refer to the following:

- California Work Opportunity and Responsibility to Kids (CalWORKs) Housing Support Program (HSP)
- Housing Opportunities for Persons with AIDS (HOPWA)
- HOME Tenant Based Rental Assistance (TBRA)
- Fresno Madera Continuum of Care (FMCoC) Partnerships

Specific criteria related to these programs are covered in the chart below.

Outreach responsibility for these programs may occur through the Fresno Madera Continuum of Care (FMCoC) Coordinated Entry System or direct referral from FMCoC partners. Pre-application may be completion of the Vulnerability Index Services Prioritization Decision Assistance Tool (VI-SPDAT) or the Family Vulnerability Index Services Prioritization Decision Assistance tool (F-VI-SPDAT).

<b>Pre-Entry Factors Related to Homeless Initiatives Programs and Partnerships</b>				
<b>Program Specific Criteria</b>	<b>CalWORKs HSP</b>	<b>HOPWA</b>	<b>HOME TBRA</b>	<b>FMCoC Partnerships</b>
Eligibility Criteria	<ul style="list-style-type: none"> <li>DSS determination of families with children enrolled in or eligible for CalWORKs assistance</li> <li>Eligible CalWORKs families who are homeless or at risk of homelessness</li> </ul>	<ul style="list-style-type: none"> <li>Household in which one member has a medical diagnosis of HIV /AIDS</li> <li>Income must be below 80% AMI</li> <li>Must be homeless or at risk of homelessness</li> </ul>	<ul style="list-style-type: none"> <li>Individuals/families who are homeless, at risk of homelessness or transitioning from a homeless assistance program</li> <li>Income must be 60% AMI</li> </ul>	<ul style="list-style-type: none"> <li>Literally or chronic homeless as defined by HUD, 24 CFR 578.3</li> </ul>
Outreach Responsibility	Department of Social Services (DSS) (primary) & FH (secondary)	West Care California (WC-CA) primary; FH (secondary)	FMCoC Coordinated Entry System (primary); FH (secondary)	FMCoC Coordinated Entry System
Partnership or MOU?	MOU between FH & DSS	MOU between FH and WC-CA	MOU between the City of Fresno and FH	MOU between FMCoC partner and FH
Requires Referral? Y/N	Yes	Yes. Referral Form WC-CA	Yes, Coordinated Entry System	Yes, Coordinated Entry System
Referral Process	Referrals made by DSS Homeless Assistance Unit	WC-CA refers HOPWA-eligible household	Referral from the Coordinated Entry System	Referral from the Coordinated Entry System
Placed on HCV Waiting List?	No	No	No	No
Selection from the HCV Waiting List	N/A	N/A	N/A	N/A

Must Meet HCV Voucher Eligibility? Y/N	No	No	No	No
Program-Specific Screening Criteria Y/N	Yes - May not admit families who are not enrolled in or eligible for CalWORKs assistance as defined by DSS	Yes – household must meet medical diagnosis of target population	Yes, homeless status and 60% AMI	Yes, homeless status are defined by HUD, 24 CFR 578.3

<b>Participant-Related Factors for Homeless Initiative Programs and Partnerships</b>				
<b>Program Specific Criteria</b>	<b>CalWORKs</b>	<b>HOPWA</b>	<b>HOME TBRA</b>	<b>FMCOG</b>
Certificate Expiration	N/A	60 Days with opportunity for extension up to a maximum of 120 days	60 Days with opportunity for extension up to a maximum of 120 days	60 Days with opportunity for extension up to a maximum of 120 days
Portability Option? Y/N	No, family must live within the County of Fresno	No, families must live within the City of Fresno	No, families must live within the City of Fresno	No, families must live within the County of Fresno
Program Specific Grounds for Termination of Assistance	No. Case management must be offered but non-compliance with case management cannot be used as grounds for non-compliance.	No. Case management must be offered but non-compliance with case management cannot be used as grounds for non-compliance.	No. Case management must be offered but non-compliance with case management cannot be used as grounds for non-compliance.	No. Case management must be offered but non-compliance with case management cannot be used as grounds for non-compliance.

## CHAPTER 27: TARGETED PROGRAMS

The Housing Authority of the City of Fresno (FH) periodically has the opportunity to apply for targeted funding for special populations. The programs covered in this chapter refer to the following:

- Veterans Affairs Supportive Housing (VASH) program
- Family Unification Program (FUP)
- FSS & FUP Demonstration Program
- Non-Elderly Disabled (NED) Program
- Mainstream 5 Program
- Mainstream Voucher Program
- Project Basing Special Purpose Vouchers

Specific criteria related to these programs are covered below.

### 27.1 VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

Eligibility Criteria: Fresno Veterans Affairs Medical Center (Fresno VAMC) determines Veteran status and documents homeless status documenting homelessness according to McKinney Vento;

- Income eligibility; up to 80% AMI
- Citizenship Verification
- Criminal Background Check for Lifetime Sexual Offender

Outreach: Responsibility of Fresno VAMC (primary); FH (secondary)

Referral Process: Referrals are from Fresno VAMC only. Referrals are made by Fresno VAMC Healthcare for Homeless Veterans Program. Fresno VAMC Social Worker refers VASH eligible households when FH notifies a voucher is vacated. Fresno VAMC maintains the waitlist of pre-screened applicants.

Agreement: MOU between Fresno VAMC and FH.

Pre-application Process: The Pre-application process is handled by Fresno VAMC.

Placement on HCV Interest/Waiting List: Referrals are not placed on the HCV Interest/Waiting list. Fresno VAMC maintains a specific VASH waiting list.

Selection from the HCV Interest/Waiting List: N/A



Meeting HCV Voucher Eligibility Requirement: Referred individuals/families must meet HCV Voucher Eligibility Requirement with one exception; participants will be required to undergo criminal background check for lifetime registration requirement under a state sex offender registration program only.

Program-Specific Screening Criteria: FH is required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. (24 CFR 982.553[2])

Voucher Expiration: 120 days

Portability: There are two types of portability for HUD-VASH:

- *Type 1* is for a Veteran or Veteran's family who wishes to live in a town within the catchment area of the VA medical center that is outside the area covered by the PHA where the voucher is allocated. The Veteran must be able to continue with case management services provided by the VA medical center to port the voucher. The PHA covering the area where the Veteran chooses to live would receive the voucher and would follow HUD rules for administering this voucher.
- *Type 2* is for a Veteran or Veteran's family accepted into HUD-VASH who wishes to move outside of the catchment area to another jurisdiction where it is not possible for the admitting VA medical center to provide case management services. The VA medical center working with the Veteran must first determine that the Veteran's family could be served by another HUD-VASH Program in the area where the Veteran wishes to live and the receiving PHA must have a HUD-VASH voucher available for this family. The families must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH Program), or as a portability move-in (after an initial leasing in the initial PHA's jurisdiction). Upon absorption, the first PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family and the absorbed family counts toward the number of HUD-VASH slots awarded to the receiving PHA. The receiving PHA must process this move in accordance with the portability procedures.

Program Specific Grounds for Termination of Assistance: Families that fail to comply with case management requirements as determined by the VAMC must be terminated from the voucher program. Any violation of the Statement of Family Obligations as referenced in Chapter 15, Section 15.4 can result in termination. Terminations from case management will result in termination from the voucher program.

## 27.2 FAMILY UNIFICATION PROGRAM (FUP)

### Eligibility Criteria:

- Families for whom lack of adequate housing is a primary factor in the separation or threat of imminent separation of a child or children from their families;
- Youth 18-24 years old (has not reached 25th birthday), who left foster care at age 16 or older, or will leave foster care within 90 days and lack adequate housing and lack adequate housing;
- Families or youths displaced by domestic violence and lack adequate housing.

Outreach: Responsibility of Fresno County Department of Social Services (DSS) (primary); FH (secondary)

Referral Process: DSS refers FUP-eligible families or youth by submitting a completed FUP Referral Form and HCV Pre-application Form

Agreement: MOU between DSS and FH.

Pre-application Process: The Pre-application process is handled by DSS along with a referral.

Placement on HCV Interest/Waiting List: Yes. FUP eligible families and youth are placed on HCV interest/waiting list and coded as “FUPF” and “FUPY” respectively. FH will check to see if the referred family/youth is on existing HCV interest/waiting list and code them accordingly. If FUP-eligible families or youths are not on the existing open HCV interest/waiting list, FH will add the family/youth to the HCV interest/waiting list in date and time order of the referral and code them accordingly. If the existing HCV interest/waiting list is closed and there is availability of FUP voucher(s), FH will open the HCV interest/waiting list to accept FUP program-specific HCV pre-applications.

Selection from the HCV Interest/Waiting List: FH will select from the HCV interest/waiting list according to date and time of FUP referrals. FH may pull only FUP program-specific applicants in date and time order of the referral.

Meeting HCV Voucher Eligibility Requirement: Referred individuals/families must meet HCV income and other voucher eligibility requirements. If requirements are not met, the FUP-eligible family or youth will not be eligible to be placed back on the HCV interest/waiting list.

Program-Specific Screening Criteria: No; FUP-eligible family or youth must meet all HCV screening criteria

Voucher Expiration: 60 Days with opportunity for extension up to a maximum of 120 days

Portability: Yes, same as HCV.

Program Specific Grounds for Termination of Assistance: No. Families and youths that fail to comply with supportive services offered by DSS are not considered non-compliant and such cannot be used as grounds to terminate housing assistance.

### **27.3 FAMILY SELF-SUFFICIENCY AND FAMILY UNIFICATION PROGRAM – YOUTH DEMONSTRATION**

Eligibility Criteria:

- Youth 18-24 years old (has not reached 25th birthday), who left foster care at age 16 or older, or will leave foster care within 90 days and lack adequate housing and lack adequate housing;
- Families or youths displaced by domestic violence and lack adequate housing;
- Families and/or youth must enroll in the FSS program and sign a contract of participation of up to 5 years;
- Families and/or youth must participate simultaneously in both the FSS and FUP-Youth.

Outreach: Responsibility of Fresno County Department of Social Services (DSS) (primary); FH (secondary)

Referral Process: DSS refers FUP-Y eligible families or youth by submitting a completed FUP Referral Form and HCV Pre-application Form

Agreement: MOU between DSS and FH.

Pre-application Process: The Pre-application process is handled by DSS along with a referral.

Placement on HCV Interest/Waiting List: Yes. FUP-Y eligible families and youth are placed on HCV interest/waiting list and coded as “FUPY”. FH will check to see if the referred family/youth is on existing HCV interest/waiting list and code them accordingly. If FUP-Y eligible families or youths are not on the existing open HCV interest/waiting list, FH will add the family/youth to the HCV interest/waiting list in date and time order of the referral and code them accordingly. If the existing HCV interest/waiting list is closed and there is availability of FUP-Y voucher(s), FH will open the HCV interest/waiting list to accept FUP-Y program-specific HCV pre-applications.

Selection from the HCV Interest/Waiting List: FH will select from the HCV interest/waiting list according to date and time of FUP-Y referrals. FH may pull only FUP-Y program-specific applicants in date and time order of the referral.

Meeting HCV Voucher Eligibility Requirement: Referred individuals/families must meet HCV income and other voucher eligibility requirements. If requirements are not met, the FUP-Y eligible family or youth will not be eligible to be placed back on the HCV interest/waiting list.

Program-Specific Screening Criteria: No; FUP-Y eligible family or youth must meet all HCV screening criteria.

Voucher Expiration: 60 Days with opportunity for extension up to a maximum of 120 days

Portability: Yes, same as HCV.

Program Specific Grounds for Termination of Assistance: FUP-youth participating in the FSS & FUP demo who fail to comply with the terms and conditions of the FSS Contract of Participation without good cause (see Chapter 16 Sections 16.6.2 and 16.6.3 for good cause) and is terminated from the FSS program, the FUP-youth is no longer considered a participant in the demonstration. With termination, the FUP-youth is subject to the statutory time limit of 18 months, beginning from the time the first HAP contract is signed. If the FUP-youth has been assisted for more than 18 months, FH will terminate assistance to the FUP-youth household.

#### **27.4 NON-ELDERLY DISABLED (NED) PROGRAM**

Eligibility Criteria: A Non-Elderly Disabled (NED) family is defined by HUD as a family whose head of household, spouse or co-head is non-elderly (age 18-61) and is disabled.

Outreach: Responsibility of FH

Referral Process: N/A

Agreement: N/A.

Pre-application Process: The NED family must complete a HCV Pre-application form

Placement on HCV Interest/Waiting List: Yes, coded "NED". If the existing HCV interest/waiting list is closed and there is availability of NED voucher(s) for non-

elderly disabled families, FH may open the HCV interest/waiting list to accept NED program- specific HCV pre-applications and code them accordingly.

Selection from the HCV Interest/Waiting List: FH will select from the HCV interest/waiting list according to date and time of HCV pre-application. FH may pull NED program specific applicants from the interest/waiting list in date and time order.

Meeting HCV Voucher Eligibility Requirement: Yes; NED families must meet income and other voucher issuance eligibility and the non-elderly disabled family requirements for the NED program. If the family does not meet the NED program eligibility requirements and was allowed to submit a HCV pre-application during a program specific opening of the HCV interest/waiting list, they will be removed from the HCV interest/waiting list. If the family submitted a HCV pre-application during an open HCV interest/waiting list, they will be allowed to remain on the existing HCV interest/waiting list in date and time order with the rest of the HCV applicants.

Program-Specific Screening Criteria: No; NED eligible families must meet all HCV screening criteria.

Voucher Expiration: 60 Days with opportunity for extension up to a maximum of 120 days

Portability: Yes, same as HCV.

Program Specific Grounds for Termination of Assistance: No.

## **27.5 MAINSTREAM 5 PROGRAM**

Eligibility Criteria: Mainstream 5 criteria is defined by HUD as a family that is elderly or non-elderly and where the head of household, co-head of household, or spouse is disabled.

Outreach: Responsibility of FH

Referral Process: N/A

Agreement: N/A.

Pre-application Process: The Mainstream 5 family must complete a HCV Pre-application form

Placement on HCV Interest/Waiting List: Yes, coded "MS5". If the existing HCV interest/waiting list is closed and there is availability of Mainstream 5 voucher(s) for elderly and non-elderly disabled families, FH may open the HCV

interest/waiting list to accept Mainstream 5 program-specific HCV pre-applications and code them accordingly.

Selection from the HCV Interest/Waiting List: FH will select from the HCV interest/waiting list according to date and time of HCV pre-application. FH may pull Mainstream 5 program-specific applicants from the interest/waiting list in date and time order.

Meeting HCV Voucher Eligibility Requirement: Yes; Mainstream families must meet income and other voucher issuance eligibility and the non-elderly disabled or elderly disabled family requirements for the Mainstream 5 program. If the family does not meet the Mainstream program eligibility requirements and was allowed to submit a HCV pre-application during a program specific opening of the HCV interest/waiting list, they will be removed from the HCV interest/waiting list. If the family submitted a HCV pre-application during an open HCV interest/waiting list, they will be allowed to remain on the existing HCV interest/waiting list in date and time order with the rest of the HCV applicants.

Program-Specific Screening Criteria: No; Mainstream 5 eligible families must meet all HCV screening criteria.

Voucher Expiration: 60 Days with opportunity for extension up to a maximum of 120 days

Portability: Yes, same as HCV.

Program Specific Grounds for Termination of Assistance: No.

## **27.6 MAINSTREAM VOUCHER PROGRAM**

Eligibility Criteria: Mainstream Voucher is HUD defined as a family in which an adult family member is both non-elderly (age 18-61) and has a disability. Additionally they may meet one of the following:

- Transitioning out of institutional or other segregated settings; or,
- Currently experiencing homelessness; or
- At risk of becoming homeless.

Outreach: Responsibility of FH

Referral Process: N/A

Agreement: N/A.

Pre-application Process: The Mainstream Voucher family must complete a HCV Pre-application form.

Placement on HCV Interest/Waiting List: Yes, coded “MVP”. If the existing HCV interest/waiting list is closed and there is availability of Mainstream Voucher voucher(s) for Mainstream Voucher eligible families, FH may open the HCV interest/waiting list to accept Mainstream Voucher program-specific HCV pre-applications and code them accordingly.

Selection from the HCV Interest/Waiting List: FH will select families who are potentially eligible for the Mainstream voucher program from an existing HCV interest/waiting list, when available, using the method specified in the Public Notice for regular HCV vouchers. If an existing interest/waiting list is not available, FH may open the interest/waiting list specifically for persons who meet the eligibility criteria and pull Mainstream Voucher program-specific applicants from the interest/waiting list in date and time order or using a random-selection method. The eligibility criteria and selection method will be specified in a Public Notice.

Meeting HCV Voucher Eligibility Requirement: Yes; Mainstream Voucher families must meet income and other voucher issuance eligibility and the non-elderly disabled if the family submitted a HCV pre-application during an open HCV interest/waiting list, they will be allowed to remain on the existing HCV interest/waiting list in date and time order with the rest of the HCV applicants. If the family does not meet the Mainstream Voucher program eligibility requirements and was allowed to submit a HCV pre-application during a program specific opening of the HCV interest/waiting list, they will be removed from the HCV interest/waiting list.

Program-Specific Screening Criteria: No; Mainstream Voucher eligible families must meet all HCV screening criteria.

Voucher Expiration: 60 Days with opportunity for extension up to a maximum of 120 days

Portability: Yes, same as HCV.

Program Specific Grounds for Termination of Assistance: No.

## **27.7 PROJECT-BASING SPECIAL PURPOSE VOUCHERS**

**[FR Notice 1/18/2017)**

FH may consider project-basing HUD-VASH vouchers and/or Family Unification Program (FUP) vouchers without requiring additional HUD approval. PIH Notice 2015-10 requires that PHAs wishing to project-base HUD-VASH vouchers meet certain requirements in order to do so, however, those PBV requirements are now superseded by the statutory amendments made by the Housing Opportunity and Through Modernization Act (HOTMA). HOTMA also allows PHAs to project-base vouchers awarded to the PHA for the FUP program without further approval from HUD.



## **CHAPTER 28: VIOLENCE AGAINST WOMEN ACT & DOMESTIC VIOLENCE**

### **28.1 INTRODUCTION**

Title VI of the Violence Against Women Act (VAWA) adds a new housing provision that establishes several categories of protected individuals. Under the law victims of domestic violence, dating violence, stalking, and victims of sexual assault are granted protections, and cannot be denied or terminated from housing or housing assistance because of activity that is directly related to domestic violence.

#### **28.1.1 PURPOSE**

The purpose of this policy is to reduce domestic violence, dating violence, sexual assault, and stalking and to prevent homelessness by:

- protecting the safety of victims;
- creating long-term housing solutions for victims;
- building collaborations among victim service providers; and
- assisting the PHA to respond appropriately to the violence while maintaining a safe environment for the PHA, employees, tenants, applicants, Housing Choice Voucher participants, and others.

The policy will assist FH in providing rights under the Violence Against Women Act to its applicants, public housing residents, Housing Choice Voucher participants and other program participants.

This policy is incorporated into FH's "Admission and Continuing Occupancy Policy", and "Housing Choice Voucher Program Administrative Plan" and applies to all PHA housing programs.

#### **28.1.2 DEFINITIONS**

The definitions in this Section apply only to this policy.

Actual or 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 or 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 means a spouse, parent, brother, sister, child or a person to whom the tenant stands in the place of a parent or guardian, or any individual, tenant, or other lawful occupant living in the tenant's household.

**Confidentiality:** The PHA will not enter information provided to the PHA by a victim alleging domestic violence into a shared database or provide this information to any related entity.

**Dating Violence:** Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the persons involved in the relationship.

**Domestic Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim or intimate partner of the victim, committed by a person with whom the victim shares a child in common, committed by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, committed by a person similarly situated to a spouse of the victim under the domestic or family violence laws of California, or committed 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 California.

The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

**Immediate Family Member:** A spouse, parent, brother or sister, or child of a victim or an individual to whom the affiliated individual; or any other person living in the household of the victim and related to the victim by blood or marriage.

**Perpetrator:** A person who commits an act of domestic violence, dating domestic violence or stalking against a victim.

**Safe Unit:** refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

**Stalking:** (a) to follow, pursue or repeatedly commit acts with the intent to kill, injure, harass or intimidate the victim; (b) to place under surveillance with the intent to kill, injure, harass or intimidate the victim; (c) in the course of, or as a result of such following, pursuit, surveillance, or repeatedly committed acts, to place the victim in reasonable fear of the death of, or serious bodily injury to the victim.

**Sexual Abuse:** To cause substantial emotional or physical harm to the victim, an affiliated individual of the victim or the spouse or intimate partner of the victim.

**Sexual Assault:** Any type of sexual contact or behavior that occurs by force or without consent of the recipient of the unwanted sexual activity. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse,

sodomy, child molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to consent either due to age or lack of capacity.

Bona Fide Claim: A bona fide claim of domestic violence, dating violence or stalking must include incidents that meet the terms and conditions in the above definitions.

### **28.1.3 CERTIFICATION AND CONFIDENTIALITY**

The person claiming protection under VAWA shall provide complete and accurate certifications to a PHA owner or manager within 14 business days after the party requests in writing that the person completes the certifications. If the person does not provide a complete and accurate certification within the 14 business days a PHA owner or manager may take action to deny or terminate participation or tenancy. Mitigating circumstances will be considered in any case where the person or family did not submit or could not submit documentation timely. Additional time may be granted to a family on a case by case basis.

### **28.1.4 HUD APPROVED CERTIFICATION**

For each incident that a person is claiming as abuse, the person may certify to the PHA, owner or manager, their victim status by completing a HUD approved certification (form HUD-5382). The person shall certify the date, time and description of the incidents, that the incidents are bona fide incidents of actual or threatened abuses and meet the requirements of VAWA and this Policy. The person shall provide information to identify the perpetrator including but not limited to the name and, if known, all alias names, date of birth, address, contact information such a postal, e-mail or internet address, telephone or facsimile number or other identification if it is safe to provide and is known to the victim.

### **28.1.5 OTHER CERTIFICATION**

A person who is claiming victim status may provide to the PHA, an owner or manager: (a) documentation signed by the victim and an employee, agent or volunteer of a victim service provider, an attorney, record of administrative agency, mental health professional or a medical professional from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking or the effects of the abuse, in which the professional attests under penalty of perjury the professional's belief that the incident(s) in question are bona fide incidents of abuse; or (b) a federal, state, tribal, territorial, local police or court record. Additional information may be requested for additional clarification purposes.

### **28.1.6 CONFIDENTIALITY**

The PHA and the owner and managers shall keep all information provided to the PHA under this section confidential. The PHA and owner and manager shall not enter the information into a shared database or provide to any related entity except to the extent that:

- the victim requests or consents to the disclosure in writing;
- the disclosure is required for eviction from public housing and/or termination of Housing Choice Voucher assistance; or
- the disclosure is required by applicable law.

### **28.1.7 APPROPRIATE BASIS FOR DENIAL OF ADMISSION, ASSISTANCE, OR TENANCY**

PHA shall not deny participation or admission to a program on the basis of a person's abuse status, if the person otherwise qualifies for admission of assistance.

An incident or incidents of actual or threatened domestic violence, dating violence, stalking, or victims of sexual assault will not be a serious or repeated violation of the lease by the victim and shall not be good cause for denying to a victim admission to a program, terminating Public Housing assistance or occupancy rights, or evicting a tenant.

Criminal activity directly related to domestic violence, dating violence, sexual assault or stalking engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant's family is the victim of that domestic violence, dating violence or stalking.

Nothing in the previous sections shall limit the PHA's authority to propose termination of assistance of any participant for any violation of program Family Obligations not premised on the act or acts of violence against the participant or a member of the participant's household. However, the PHA may not hold a victim to a more demanding standard.

Nothing in the previous sections shall limit the PHA's authority to propose termination of assistance, or deny admission to a program, if the PHA can show an actual and imminent threat to other tenants, neighbors, guests, their employees, persons providing service to the property or others if the participant family is not terminated from assistance or denied admission.

Nothing in the previous sections shall limit the PHA's authority to deny admission or terminate the assistance of a person who engages in criminal acts including but

not limited to acts of physical violence or stalking against family members or others.

A Housing Choice Voucher participant who moves out of an assisted dwelling unit to protect their health or safety and who: (a) is a victim under this policy; (b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the unit; and (c) has complied with all other obligations of the Housing Choice Voucher program may receive a voucher and move to another Housing Choice Voucher jurisdiction.

#### **28.1.8 ACTIONS AGAINST A PERPETRATOR**

The PHA may take action against a perpetrator of domestic violence; however, the survivor of domestic violence may take action to control or prevent the violence, sexual assault, dating violence, or stalking. The action may include but is not limited to: (a) obtaining and enforcing a restraining or no contact order or order for protection against the perpetrator; (b) obtaining and enforcing a trespass against the perpetrator; (c) enforcing PHA or law enforcement's trespass of the perpetrator; (d) preventing the delivery of the perpetrator's mail to the victim's unit; (e) other reasonable measures.

#### **28.1.9 PHA RIGHT TO TERMINATE HOUSING AND HOUSING ASSISTANCE UNDER THIS POLICY**

Nothing in this Policy will restrict the PHA's right to terminate program assistance for program violations by a participant who claims VAWA as a defense if it is determined by the PHA that such a claim is not credible. Nothing in this policy will restrict the PHA's right to terminate program assistance if the participant (a) allows a perpetrator to violate a court order relating to the act or acts of violence; or (b) if the participant allows a perpetrator who has been barred from assisted unit to come onto the assisted unit including but not limited to the assisted unit's immediate vicinity under their control.

Nothing in this policy will restrict the PHA's right to terminate housing assistance if the participant who claims as a defense to an eviction or termination action relating to domestic violence has engaged in fraud and abuse against a federal housing program; especially where such fraud and abuse can be shown to have existed before the claim of domestic violence was made. Such fraud and abuse includes but is not limited to unreported income; unauthorized household members; and/or ongoing violations of program Family Obligations.

#### **28.1.10 STATEMENTS OF RESPONSIBILITY OF PARTICIPANT, THE PHA TO THE VICTIMS, AND TO THE LARGER COMMUNITY**

A participant has no less duty and responsibility under the program Family Obligations to meet and comply with the terms of the program than any other participant not making such a claim. Ultimately, all participants must be able to take personal responsibility for themselves and exercise control over their households in order to continue their housing and housing assistance. The PHA will continue to address all participants who violate their Family Obligations including those who claim a defense of domestic violence. The PHA recognizes the pathologic dynamic and cycle of domestic violence and will work with victims of domestic violence partnering with other local victim support service providers and can refer the participant to the service providers when requested.

#### **28.1.11 NOTICE TO APPLICANTS, PARTICIPANTS AND TENANTS**

The PHA shall provide notice to applicants, participants, tenants, and managers of their rights and obligations under VAWA, including the right to confidentiality when a person is denied assistance, when a person is admitted, and when a tenant is notified of eviction or termination of housing benefits and within the 12 month period following December 16, 2016, either during the annual recertification process or lease renewal process, whichever is applicable. Tenant will also be provided with HUD form-5382 and Notice of Occupancy Rights Under VAWA.

#### **28.1.12 REPORTING REQUIREMENTS**

The PHA shall include in its 5-year plan a statement of goals, objectives, policies or programs that will serve the needs of victims. PHA shall also include a description of activities, services or programs provided or offered either directly or in partnership with other service providers to victims, to help victims obtain or maintain housing or to prevent the abuse or to enhance the safety of victims.

#### **28.1.13 CONFLICT AND SCOPE**

This Policy does not enlarge the PHA's duty under any law, regulation or ordinance. If this policy conflicts with the applicable law, regulation or ordinance, the law, regulation or ordinance shall control. If this policy conflicts with another PHA policy, this Policy will control.

#### **28.2 MOVES**

A family may receive a voucher from a PHA and move under the tenant-based assistance program if the family has complied with all other obligations of the HCV Program and/or has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was actually or

imminently threatened by harm or further violence if he or she remained in the assisted dwelling unit.

During the initial term of the lease, the family may move with a signed mutual agreement with the landlord to terminate the lease. The family must give the owner at least 30 days written notice of intent to vacate as specified by applicable law and must simultaneously give a copy to the PHA. The notice must be submitted to the PHA no later than the date the family submits a Request for Tenancy Approval (RFTA).

If the family's annual recertification is due within 120 days, the recertification will be expedited. If the family reports a change in income or family composition prior to the submission of a Request for Tenancy Approval (RFTA), the move process will be stopped and the reported change in income or family composition will be reviewed to determine whether the family remains eligible for the voucher size it has been issued, or if the change will result in the family paying more than 40% of their monthly adjusted income toward rent. As these are required by regulation, they cannot be waived, however, the recertification will be expedited in an effort to approve the move more swiftly.

If the family is exercising portability and reports a change, the receiving PHA will first request the initial PHA to complete an interim change. The initial PHA will expedite to not cause a delay in processing the portability.

If the family has missed two (2) consecutively scheduled voucher issuance sessions without good cause, the move request will be canceled. If the family submits a new request to move, the request will be processed timely.

### **28.3 NON-CITIZEN SELF-PETITIONER VERIFICATION**

A. Financial assistance to ineligible noncitizens will not be denied while verifying immigration status.

B. Self-petitioners can indicate that they are in "satisfactory immigration status" when applying for assistance or continued assistance. "Satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance. After verifying such immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, FHs will make a final determination as to the self-petitioner's eligibility for assistance.

C. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR (Lawfully Permanent Resident).

D. Once FH receives a self-petition (INS Form I-360 or I-130) or INS Form 797, FH will not request any additional information from the VAWA self-petitioner, other than what is required using the SAVE system to complete the verification.

E. When FH receives a self-petition or INS Form 797 Notice of Action, FH will initiate verification in the SAVE System

F. Final determination from the SAVE System. FH will receive one of two confirmations:

- the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected;
- the I-130 is verified, in which case the petitioner submitting a family-based visa petition must provide to FH any evidence of “battery or extreme cruelty.”

G. Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR (Lawful Permanent Resident) status is made. If the final determination is to deny the VAWA self-petition or LPR petition, FH must alert the petitioner and take actions to terminate voucher/rental assistance or evict the petitioner from public housing/affordable housing program (s) in accordance with the existing public/affordable or governing housing requirements.



## CHAPTER 29: EMERGENCY HOUSING VOUCHERS (EHV)

### 29.1 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 PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

PHAs 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 PHA 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 PHA 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**

### **29.2 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 PHA programs or vouchers. The PHA must maintain separate financial records from its regular HCV funding for all EHV funding.

#### **29.2.1 HOUSING ASSISTANCE PAYMENTS (HAP) FUNDING**

ARP funding obligated to the PHA 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 PHA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the PHA'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.

#### **29.2.2 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 PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
  - \$400 per EHV allocated to the PHA, 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 (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 EHV:
  - \$100 for each EHV initially leased, if the PHA 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:
    - o \$500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
    - o \$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.
    - o 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:
  - PHAs 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 PHAs’ efforts to implement and operate an effective EHV services program in its jurisdiction (I.B):
  - The fee is allocated once the PHA’s CACC is amended to reflect EHV funding.
  - The amount allocated is \$3,500 for each EHV allocated.

### 29.3 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 PHA must establish the eligible uses and the parameters and requirements for service fees in the PHA's administrative plan.

### PHA Policy

The eligible uses for service fees may include the following. Said services will be provided by Fresno Madera Continuum of Care partnering agencies.

**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 PHA 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 PHA may choose to assist the family with some or all these expenses.

**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 PHA may pay the security deposit assistance directly to the owner or may pay the assistance to the family. If paid to the family, the PHA will require documentation that the family paid the security deposit.

**Utility deposit assistance/utility arrears.** The PHA may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease. The PHA may pay the utility deposit assistance directly to the utility company or may pay the assistance to the family. If paid to the family, the PHA will require documentation the family paid the utility deposit. The PHA will require the utility supplier or family to return the utility deposit assistance to the PHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier). In addition, some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult if not impossible to establish services for tenant-supplied utilities. The PHA may also provide the family with assistance to help address these utility arrears to facilitate leasing. Utility deposit assistance returned to the PHA will be used for either services fee eligible uses or other EHV administrative costs, as required by HUD.

**Owner recruitment and outreach for EHV's.** The PHA may use the service fee funding to conduct owner recruitment and outreach specifically for EHV's. 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 PHA 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 and deposits).** The PHA may provide assistance for some or all of the family's reasonable moving expenses when they initially lease a unit with the EHV. The PHA 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 PHA 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 PHA 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.

**Essential household items.** The PHA may use services fee funding to assist the family with some or all of the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding, and essential sanitary products such as soap and toiletries.

**Renter's insurance if required by the lease.** The PHA may choose to assist the family with some or all this cost.

Any services fee assistance that is returned to the PHA 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 PHA's EHV program ends must be remitted to HUD.

## **PART II: PARTNERING AGENCIES**

### **29.4 CONTINUUM OF CARE (CoC)**

PHAs that accept an allocation of EHV's are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHV's.

#### PHA Policy

The PHA has entered into an MOU with the Fresno Madera Continuum of Care (FMCoC) agency.

### **29.5 OTHER PARTNERING ORGANIZATIONS**

The PHA 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 PHA chooses to partner with such agencies, the PHA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the PHA and CoC.

#### PHA Policy

FH will partner with the member agencies of the Fresno Madera Continuum of Care; a consortium of organizations dedicated to service provision to those experiencing homelessness in Fresno and Madera Counties. Such organizations include Victim Service Providers, City/County government, mental health agencies, hospitals, public housing authorities and persons formerly experiencing homelessness.

#### **29.5.1 REFERRALS**

##### **FMCOC Agency Referrals**

The primary responsibility of the FMCoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking EHV assistance directly from the PHA to the FMCoC for initial intake, assessment, and possible referral for EHV assistance. Partner FMCoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHV's. The FMCoC must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

## PHA Policy

The FMCoC must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to the PHA. The FMCoC agency must certify that the EHV applicants they refer to the PHA meet at least one of the four EHV eligibility criteria. The PHA will maintain a copy of the referral or certification from the FMCoC agency in the participant's file along with other eligibility paperwork. As part of the MOU, the PHA and FMCoC agency will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. The FMCoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner. For the Fresno Madera Continuum of Care, the Community Matcher or the Community Coordinator will be responsible for transmitting referrals. For FH, the Resident Services Coordinator will be responsible for receiving referral from the FMCoC.

The PHA liaison responsible for acceptance of referrals will contact the FMCoC agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. The FMCoC agency liaison will provide the PHA 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.

### **29.5.2 OFFERS OF ASSISTANCE WITH FMCO C REFERRAL**

The PHA may make an EHV available without a referral from the FMCoC organization in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan.

The PHA must also take direct referrals from outside the FMCoC if:

- The FMCoC does not have a sufficient number of eligible families to refer to the PHA; or
- The FMCoC 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 PHA is not receiving enough referrals or is not receiving referrals in a timely manner from the FMCoC agency (or the PHA and FMCoC cannot identify any such alternative referral partner agencies), HUD may permit the PHA 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**

### **29.6 HCV WAITING LIST**

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 3 does not apply to PHAs operating the EHV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of EHV's 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.

#### PHA Policy

The PHA will post information about the EHV program for families on the PHA's HCV waiting list on their website. The notice will:

Describe the eligible populations to which EHV's are limited

Clearly state that the availability of these EHV's is managed through a direct referral process

Advise the family to contact the FMCoC if the family believes they may be eligible for EHV assistance

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

### **29.7 EHV WAITING LIST**

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. Instead, when the number of applicants referred by the FMCoC or partnering agency exceeds the EHV's available, the PHA 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 PHA policies in Chapter 2 regarding opening and closing the HCV waiting list. The PHA will work directly with the FMCoC to manage the number of referrals and the size of the EHV waiting list.



## **29.8 PREFERENCES**

### **29.8.1 HCV WAITING LIST PREFERENCES**

If local preferences are established by the PHA for HCV, they do not apply to EHV. However, if the PHA has a homeless preference or a VAWA preference for the HCV waiting list, the PHA must adopt additional policies related to EHV in accordance with Notice PIH 2021-15.

#### PHA Policy

The PHA does not offer either a homeless or a VAWA preference for the HCV waiting list.

### **29.8.2 EHV WAITING LIST PREFERENCES**

With the exception of a residency preference, the PHA may choose, in coordination with the FMCoC to establish separate local preferences for EHV. The PHA may, however, choose to not establish any local preferences for the EHV waiting list.

#### PHA Policy

No local preferences have been established for the EHV waiting list.

## **PART IV: FAMILY ELIGIBILITY**

### **29.9 OVERVIEW**

The FMCoC 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 PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

### **29.10 REFERRING AGENCY DETERMINATION OF ELIGIBILITY**

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 FMCoC agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible

categories for EHV assistance. The PHA must retain this documentation as part of the family's file.

## **29.11 PHA SCREENING**

### **29.11.1 OVERVIEW**

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirements for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 4 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 PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 4 in doing so.

### **29.11.2 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 PHA 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.

#### PHA Policy

While the PHA 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 PHA 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.

### **29.11.3 PERMISSIVE DENIAL**

Notice PIH 2021-15 lists permissive prohibitions for which the PHA 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 PHA intends to establish permissive prohibition policies for EHV applicants, the PHA must first consult with its FMCoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the FMCoC's recommendations into consideration.

### PHA Policy

FH will not adopt any permissive prohibitions for the EHV program.

In compliance with PIH 2021-15, the PHA also **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 PHA has ever terminated assistance under the program for any member of the family;

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;

The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;

The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA;

The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3);

The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

## **29.12 INCOME VERIFICATION AT ADMISSION**

### **29.12.1 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, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Chapter 7.3.1 does 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 PHA's request.

#### PHA Policy

Any documents used for verification must be the original (not photocopies) 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 PHA and must be signed by the family member whose information or status is being verified.

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 15. The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 18. If the family fails to repay the excess subsidy, the PHA will terminate the family's assistance in accordance with the policies in Chapter 18.

### **29.12.2 RECENTLY CONDUCTED INCOME DETERMINATIONS**

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA 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.

#### PHA Policy

The PHA 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 PHA 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 PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 12.

### **29.12.3 EIV INCOME VALIDATION**

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA 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, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 15.

### **29.13 SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION**

For the EHV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, PHAs 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 PHA 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 PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

#### PHA Policy

The PHA 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 PHA may provide an additional 60-day extension based on evidence from the family or confirmation from the FMCoC agency that the family has made a good-faith effort to obtain the documentation.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 15.

#### **29.14 AGE AND DISABILITY VERIFICATION**

PHAs 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 PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

##### PHA Policy

The PHA 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 PHA 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 PHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The PHA 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 PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 15.

#### **29.15 INCOME TARGETING**

The PHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for EHV families. The PHA 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.

##### PHA Policy

The PHA 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**

#### **29.16 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. PHA policies on extensions as outlined in Section 5-II.E. will apply.

##### PHA Policy

All EHV's 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 PHA grants an extension.

## 29.17 HOUSING SEARCH ASSISTANCE

The PHA 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 PHA or through the FMCoC 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 PHA forms; and
- Help expedite the EHV leasing process for the family

### PHA Policy

As identified in the MOU between the PHA and CoC, the following housing search assistance will be provided to each EHV family:

The PHA will:

Conduct owner outreach

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

The FMCoC will:

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 PHA forms

## **29.18 HQS PRE-INSPECTIONS**

To expedite the leasing process, PHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

### PHA Policy

To expedite the leasing process, the PHA 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 provided that 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 PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

## **29.19 INITIAL LEASE TERM**

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHA policy in Chapter 9.9, Term of Assisted Tenancy.

## **29.20 PORTABILITY**

The normal HCV portability procedures and requirements outlined in Chapter 13 generally apply to EHV. Exceptions are addressed below.

### **29.20.1 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 PHA when they applied, regardless of PHA policy in Chapter 13.7.1.

### **29.20.2 BILLING AND ABSORPTION**

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHV under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV under its own ACC:
  - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA 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 PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.
- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

### **29.20.3 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 PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

#### PHA Policy

In addition to following PHA policy on briefings in Chapter 8, as part of the briefing packet for EHV families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with the PHA's LEP plan in Chapter 1.15.

### **29.20.4 COORDINATION OF SERVICES**

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

#### PHA Policy

For EHV families who are exercising portability, the PHA contacts the receiving PHA in accordance with Chapter 13. Preapproval Contact with Receiving PHA, the PHA will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

### **29.20.5 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 PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1,750, unless the initial PHA and

receiving PHA mutually agree to change the \$1,750 cap. Service fees are paid as follows:

- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHV, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHV, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

#### **29.20.6 PLACEMENT FEE/ISSUANCE REPORTING FEE**

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuance reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

#### **29.21 PAYMENT STANDARDS**

##### **29.21.1 PAYMENT STANDARD SCHEDULE**

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for EHV. Lower EHV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA 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 PHA chooses to establish higher payments standards for EHV, 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 PHA 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 PHA 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 PHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

#### PHA Policy

Pending

### **29.21.2 RENT REASONABLENESS**

All rent reasonableness requirements apply to EHV units, regardless of whether the PHA has established an alternative or exception EHV payment standard.

### **29.21.3 INCREASES IN PAYMENT STANDARDS**

The requirement that the PHA 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 PHA 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.

#### PHA Policy

The PHA may apply increased payment standards as stated above based on available budget authority.

### **29.22 TERMINATION OF VOUCHERS**

After September 30, 2023, a PHA may not reissue EHV 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 PHA 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 EHV 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 EHV that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV to cease leasing any unleased EHV 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 PHA 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 PHA 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 PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV 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 EHV 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 PHA 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 PHA 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 EHV in accordance with the HCV program requirements at 24 CFR 982.158.

**APPENDIX A****FRESNO HOUSING AUTHORITIES EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING****Emergency Transfers**

**Fresno Housing (FH)** 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),<sup>1</sup> FH 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.<sup>2</sup> The ability of FH 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 FH 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

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<sup>1</sup> 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.

<sup>2</sup> 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.

emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD); the Federal agency that oversees that programs such as; Housing Choice Voucher Program (HCV), Project Based Voucher (PBV), Veteran's Affairs Supportive Housing (VASH), HOME Tenant Based Rental Assistance (TBRA), Family Unification Program (FUP), Family Unification Program- Youth(FUP-Y), and Continuum of Care (CoC) administered under FH's Assisted Housing Division (AHD), Low Income Public Housing (LIPH), HOME Investment Partnership (HOME), Multifamily Project Rental Assistance (PBRA), Multifamily Project Based Section 8 operated under the California Finance Housing Agency (CalHFA) programs [HUD Programs] are in compliance with VAWA. Properties operated solely or in conjunction with one or more of the above and/or regulated under the Low Income Housing Tax Credit, (LIHTC) Internal Revenue Code (IRC) Section 42 program (Affordable Housing Program), administered under the Housing Management Division (HMD) are also to maintain compliance with VAWA.

### **Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this

plan. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant or participant shall start by notifying FH of the need to request the emergency transfer by completing the Emergency Transfer Request Form (HUD Form 5383). FH will provide the tenant or participant with information in writing requesting required documentation. The Tenant or Participant will then have fourteen (14) business days to submit one of the four (4) acceptable methods of documentation listed below.

1. **HUD-Approved form** – by providing to FH or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD Form 5382):

- i. That the individual is a victim of domestic violence, dating violence, sexual assault or stalking;
- ii. That the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definitions set forth in this policy;
- iii. Includes the name of the perpetrator, if the name is known to the tenant or participant and safe to provide.

2. **Other Documentation-** In lieu of the certification form or in addition to the certification form FH may accept documentation signed by both:

- i. An employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault or stalking; and
- ii. The participant or tenant

The documentation shall state, under penalty of perjury, the professional's belief that the incident or incidents in question meet the requirements of the applicable definition(s) set forth in this policy.

**3. Police or Court Record-** by providing to FH or to the requesting Section 8 owner or manager a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

4. A statement or other evidence provided by an participant or tenant.

The tenant or participant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant or participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same dwelling unit assisted under FH 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.

FH will provide reasonable accommodations to this policy for individuals with disabilities.



### **Emergency Transfer Timing and Availability**

FH cannot guarantee that a transfer request will be approved or how long it will take to process a VAWA emergency transfer request. FH 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 tenant will be required to provide a good reason for refusing the unit and documentation supporting their good cause reason for refusing the unit. FH may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If FH has no safe and available units for which a tenant who needs an emergency is eligible, FH 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, FH 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.

### **Public Housing Transfer Hierarchy:**

Transfers made pursuant to VAWA are considered emergency transfers. Tenants in PHA's Public Housing program who request and are approved for a VAWA emergency transfer will be

processed for the transfer in accordance with the PHA's hierarchy of transfers as established in PHA's ACOP 12.1.

**Multifamily/Affordable Housing Transfer Hierarchy:**

Transfers made pursuant to VAWA are considered emergency transfers. Tenants in FH's Affordable Housing program who request and are approved for a VAWA emergency transfer will be processed for the transfer in accordance with FH's hierarchy of transfers as established in the affordable housing management plan Section 5.5.

**Housing Choice Voucher Program Issuance of Voucher:**

Participants in PHA's Housing Choice Voucher Program (HCV) who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 13.2.

**HUD-VASH Voucher /Program:**

Participants in PHA's VASH Program who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 13.2.

**Continuum of Care Program (CoC):**

Participants in PHA's CoC Program who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 17.23.

**HOME TBRA Program:**

Participants in PHA's HOME Tenant Based Rental Assistance Program who request and are approved for a VAWA related transfer will be processed within the HOME TBRA Program in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 26.

**Family Unification Program including FUP-Y:**

Participants in PHA's Family Unification Program and Family Unification Program- Youth Programs who request and are approved for a VAWA related transfer will be processed within the in accordance with PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 13.2.

**Project-Based Voucher Program (PBV):**

Participants in PHA's Project-Based Voucher Program who request and are approved for a VAWA related transfer will be processed for a transfer voucher in accordance with the PHA's emergency transfer policies as established in the PHA's Administrative Plan Chapter 22.

**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 & Incest National Network's National Sexual Assault Hotline** at 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>.

### **Confidentiality**

FH will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives FH 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(s) that committed an act(s) 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 FH responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

## CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

\_\_\_\_\_

**10. Location of incident(s):** \_\_\_\_\_

In your own words, briefly describe the incident(s):

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This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

## **EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

### **The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.



**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's) \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_

\_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_

\_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

\_\_\_\_\_

\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

## **APPENDIX B**

### **LANGUAGE ASSISTANCE PLAN**

#### **I. INTRODUCTION AND PURPOSE**

Fresno Housing is committed to its obligations under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000(d) and executive Order 13166. These obligations include ensuring meaningful access to Fresno Housing’s programs and services to all eligible persons, including those who have limited English proficiency (LEP) because of their national origin. The term LEP refers to individuals who have a limited ability to read, write, or understand English well or at all. To ensure meaningful access, Fresno Housing has analyzed its operations and the populations it serves, and has developed this Language Assistance Plan (LAP). This plan details the steps Fresno Housing has taken and will continue to take to satisfy its obligation to provide the greatest degree of meaningful access to its programs and services by persons who have limited English proficiency.

#### **II. ANALYSIS OF NEED**

Based on 2015 American Community Survey 1-Year data estimates (ACS), 45% of Fresno County residents speak a language other than English, of which Spanish (77%) and Hmong (6%) are the most predominant and could be expected to participate in Fresno Housing services and programs. Among the Spanish or Spanish Creole speaking population of Fresno County, ACS data indicate that approximately 40% (123,846 people) speak English less than very well.

Among the Hmong speaking population, ACS data indicate that approximately 41% (9,977 people) speak English less than very well. Fresno Housing has determined that a broad array of language assistance services should be provided in Spanish and Hmong.

### **III. FOUR FACTOR ANALYSIS**

As noted above, Fresno Housing has determined that it serves a significant number of persons with limited English proficiency whose first language is either Spanish or Hmong. These persons can be expected to come into contact with Fresno Housing on regular events, such as 1) application; 2) lease/ Move In; 3) recertification; 4) termination of benefits. Each of these events is vital to the provision and maintenance of housing resources, clearly an important service of Fresno Housing. Fresno Housing may have multilingual employees who are available to provide interpretation services, and has the resources to provide written translation of certain vital documents into both Spanish and Hmong.

### **IV. SPECIFICS OF LANGUAGE ASSISTANCE PROVIDED**

#### **A. WRITTEN TRANSLATION**

Fresno Housing has determined that the following documents are vital to the operation of each of the programs listed below. These documents will be professionally translated and made available in both Spanish and Hmong.

1. Conventional Low-Income Public Housing Program

Application

Lease

Lease termination including legal notices

2. Multifamily Affordable Housing Program, i.e. Project Based Rental Assistance (PBRA)

Application

Lease

Lease termination including legal notices

3. 2. Housing Choice Voucher Program

Application

Lease Termination

4. Rural Development Farm Labor Housing

Application

Lease

Grievance Procedure

**B. ORAL TRANSLATION**

Fresno Housing staff members may be available to provide oral interpretation of everyday communications with persons who have limited English proficiency and whose first language is Spanish or Hmong. Additionally, Fresno Housing has contracted with Language Line Services, a commercial interpretation service that offers oral interpretation in more than 150 languages, and is available during all business hours. Fresno Housing has posted in relevant locations notices of availability of the Language Line Services – at no cost to the user – for business conducted with Fresno Housing.

**V. MONITORING AND UPDATE OF PLAN**

All staff members expected to interact with the public have been provided with guidance on the protocol in the event any person needs language assistance under this plan. This guidance

includes a “quick reference guide” for Language Line Services, as well as an identification of those staff members who are fluent in languages other than English.

Fresno Housing will consider conducting a Customer Service Survey. The intent of the survey will be to help Fresno Housing determine if the client’s needs for translating information and documents are being met. Fresno Housing will reevaluate its language assistance plan on a yearly basis to determine if 1) the population of persons with limited English proficiency has changed such that the addition or exclusion of written translations in other languages is required; and 2) the language assistance provided continues to create meaningful access to Fresno Housing’s services and programs

## APPENDIX C: PBV PROJECTS

### Acronyms:

<b>AHP</b>	Affordable Housing Program
<b>DBH</b>	Department of Behavioral Health
<b>MHSA</b>	Mental Health Services Act
<b>MHP</b>	Multi Housing Program
<b>SJVV</b>	San Joaquin Valley Veterans
<b>SMI</b>	Severe Mental Illness
<b>SHP</b>	Supportive Housing Program
<b>VHHP</b>	Veteran Homeless Housing Program

### Definitions:

***At Risk of Chronically Homeless.*** Left an institution (i.e.: jail/prison, hospital, long-term substance use rehab and was homeless before entering the institution and is homeless or chronically homeless)

***Chronically Homeless.*** Living on the street, park, car, abandoned building for one year or more AND has a disability.

***Homeless.*** Living on the street, park, car, abandoned building or shelter.

### **Butterfly Gardens (UpHoldings) • 784 Holland, Clovis CA**

<b>Number of Units:</b>	75 units with 73 PBV units
<b>Housing Type/Programs:</b>	PBV, Permanent Supportive Housing
<b>Owned by:</b>	UPH Butterfly Gardens, LP
<b>Order of Selection:</b>	
<b>Criteria for this Site:</b>	
<b>Preferences:</b>	

**Corazon del Valle Commons • Corner of 12<sup>th</sup> and Fresno St, Huron CA**

**Number of Units:** 61 units with 40 PBV units  
**Housing Type/Programs:** PBV-RAD, Tax Credit, Multifamily Housing Program (HCD)  
**Owned by:** Huron Corazon del Valle Commons, LP  
**Order of Selection:**  
**Criteria for this Site:**  
**Preferences:**

**Firebaugh Gateway/Rio Villas • 1238 P Street, Firebaugh CA**

**Number of Units:** 29 PBV  
**Housing Type/Programs:** PBV, Tax Credit, Elderly  
**Owned by:** Firebaugh Gateway, LP  
**Order of Selection:** Lottery  
**Criteria for this Site:** 62 years and older  
**Preferences:** Residency, Veterans & Disabled/Elderly

**Linnaea Villas • 2530 Sierra St, Kingsburg CA**

**Number of Units:** 41 units with 35 PBV units  
**Housing Type/Programs:** PBV, Tax Credit, Elderly  
**Owned by:**  
**Order of Selection:** Lottery  
**Criteria for this Site:** 62 years and older  
**Preferences:** Residency, Veterans & Disabled/Elderly Residency



**Wedgewood Villas • 2415 Fifth Street, Sanger CA**

<b>Number of Units:</b>	64 total units with 63 PBV
<b>Housing Type/Programs:</b>	PBV-RAD, Elderly
<b>Owned by:</b>	Sanger Wedgewood, LP
<b>Order of Selection:</b>	Lottery
<b>Criteria for this Site:</b>	62 years and older
<b>Preferences:</b>	Residency, Veterans & Disabled/Elderly Residency

**Solivita Commons • 725 W Alluvial Avenue, Clovis CA**

<b>Number of Units:</b>	60 total units with 23 PBV
<b>Housing Type/Programs:</b>	PBV-RAD, Tax Credit
<b>Owned by:</b>	Clovis Solivita, LP
<b>Order of Selection:</b>	Lottery
<b>Criteria for this Site:</b>	No Specified Criteria
<b>Preferences:</b>	Residency, Veterans & Disabled/Elderly

## **GLOSSARY**

### **ACRONYMS USED IN SUBSIDIZED HOUSING**

<b>AAF</b>	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
<b>ACC</b>	Annual contributions contract
<b>ADA</b>	Americans with Disabilities Act of 1990
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant (Program)
<b>CFR</b>	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
<b>CPI</b>	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration
<b>FICA</b>	Federal Insurance Contributions Act (established Social Security taxes)
<b>FMR</b>	Fair market rent
<b>FR</b>	Federal Register
<b>FSS</b>	Family Self-Sufficiency (Program)
<b>FY</b>	Fiscal year
<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>GR</b>	Gross rent
<b>HAP</b>	Housing assistance payment
<b>HCV</b>	Housing choice voucher
<b>HQS</b>	Housing quality standards.
<b>HUD</b>	Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System
<b>IG</b>	(HUD Office of) Inspector General
<b>IPA</b>	Independent public accountant
<b>IRA</b>	Individual Retirement Account
<b>IRS</b>	Internal Revenue Service
<b>JTPA</b>	Job Training Partnership Act
<b>LBP</b>	Lead-based paint

<b>MSA</b>	Metropolitan statistical area (established by the U.S. Census Bureau)
<b>MTCS</b>	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
<b>NOFA</b>	Notice of funding availability
<b>OMB</b>	Office of Management and Budget
<b>PASS</b>	Plan for Achieving Self-Support
<b>PHA</b>	Public housing agency
<b>PHRA</b>	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
<b>PIC</b>	PIH Information Center
<b>PIH</b>	(HUD Office of) Public and Indian Housing
<b>PS</b>	Payment standard
<b>QC</b>	Quality control
<b>QHWRA</b>	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
<b>REAC</b>	(HUD) Real Estate Assessment Center
<b>RFP</b>	Request for proposals
<b>RFTA</b>	Request for tenancy approval
<b>RIGI</b>	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>SEMAP</b>	Section 8 Management Assessment Program
<b>SRO</b>	Single room occupancy
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental security income
<b>TANF</b>	Temporary assistance for needy families
<b>TR</b>	Tenant rent
<b>TTP</b>	Total tenant payment
<b>UA</b>	Utility allowance
<b>URP</b>	Utility reimbursement payment
<b>VAWA</b>	Violence Against Women Reauthorization Act of 2005

## GLOSSARY OF SUBSIDIZED HOUSING TERMS

**Absorption.** In portability (under subpart H of this part 982): the point at which a Receiving PHA stops billing the initial HA for assistance on behalf of a portability family. The Receiving PHA uses funds available under the Receiving PHA consolidated ACC.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

**Adjusted Income.** Annual income, less allowable HUD deductions.

**Adjusted Annual Income.** Same as Adjusted Income.

**Administrative fee.** Fee paid by HUD to FH for administration of the program. See §982.152.

**Administrative fee reserve** (formerly “operating reserve”). Account established by FH from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

**Administrative plan.** The plan that describes FH policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by FH’s board and included as a supporting document to FH 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.

**Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual contributions contract (ACC).** The written contract between HUD and a FH under which HUD agrees to provide funding for a program under the 1937 Act, and FH agrees to comply with HUD requirements for the program.

**Annual Income.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program.

**Area Exception Rent.** An amount that exceeds the published FMR. See §982.504(b).

**“As-paid” States.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**Assets.** (See Net Family Assets.)

**Auxiliary aids.** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

**Budget authority.** An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a FH program, budget authority is the maximum amount that may be paid by HUD to FH over the ACC term of the funding increment.

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

**Child care expenses.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen.** A citizen or national of the United States.

**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 legal capacity to enter into a lease.

**Common space.** In shared housing: Space available for use by the assisted family and other occupants of the unit.

**Computer match.** The automated comparison of data bases containing records about individuals.

**Confirmatory review.** An on-site review performed by HUD to verify the management performance of a PHA.

**Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

**Congregate housing.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §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 HA 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.** (See Housing Assistance Payments Contract.)

**Contract authority.** The maximum annual payment by HUD to a PHA for a funding

increment.

**Cooperative** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

**Cooperative member.** A family of which one or more members owns membership shares in a cooperative.

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**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, spouse, or sole member is a person with disabilities; or 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.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Domestic violence.** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or

family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Domicile.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Drug-related criminal activity.** As defined in 42 U.S.C. 1437f(f)(5).

**Drug-trafficking.** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Economic Self-Sufficiency Program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

**Elderly family.** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly Person.** An individual who is at least 62 years of age.

**Eligible Family (Family).** A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

**Employer Identification Number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

**Extremely Low Income Family.** *Effective July 1, 2014 the definition of Extremely Low Income (ELI) changed to the greater of the Federal poverty level or 30% of Area Median Income. In addition, the new ELI limits cannot exceed the Very Low-Income (VLI) limits; therefore, in some cases the ELI limits are identical to the VLI.*

**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** means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and

sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR Part 888.

**Family.** Refer to Chapter 4, Section 4.3 of this Administrative Plan.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program).** The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by FH under FH subsidy standards.

**Federal agency.** A department of the executive branch of the Federal Government.

**First-time homeowner.** In the homeownership option: A family of which no member owned any present ownership interest in a residence of any family member during the three years before commencement of home ownership assistance for the family. The term “first-time homeowner” includes a single parent or displaced homemaker (as those terms are defined in 12 U.S.C. 12713) who, while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse.

**Foster Child Care Payment.** 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). (CFR 5.603)

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**Group home.** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

**Handicap Assistance Expense.** See “Disability Assistance Expense.”

**HAP contract.** Housing assistance payments contract. (Contract). A written contract between FH 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.



**Housing assistance payment.** The monthly assistance payment by FH, 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.** A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing.

**Housing Quality Standards.** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The Department of Housing and Urban Development.

**Immediate family member.** A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

**Imputed Asset.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**Imputed Income.** HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed \$5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income For Eligibility. Annual Income.**

**Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with handicaps.** 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.

**Initial HA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting HA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Interest List.** A list of applicants wishing to participate in the random lottery/selection process.

**Jurisdiction.** The area in which FH has authority under State and local law to administer the program.

**Landlord.** Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and FH.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

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

**Local Preference.** A preference used by FH to select among applicant families.

**Low Income Family.** A family whose income does not exceed 80% 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% 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 §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 §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% of annual income.

**Merger Date.** October 1, 1999.

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

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of “cooperative.”

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**Net family assets.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, HAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Notice of Funding Availability (NOFA).** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC). The General Counsel of HUD.**

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**FH Plan.** The annual plan and the 5-year plan as adopted by FH and approved by HUD.

**FH's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a FH 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 FH program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by FH for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Person with Disabilities.** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

**Portability.** Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the Initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**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 Section 8 program, the "processing entity" is the "responsible entity."

**Project.** A single building, multiple continuous buildings, or multiple buildings on continuous parcels of land.

**Project-Based Vouchers.** The Project-based vouchers program is administered by a public housing authority that already administers the tenant-based voucher program. Under the project-based voucher (PBV) program a local housing authority will enter into

a contract with an owner for specific units for a specific term in order to 1) expand the affordable housing in the community, and 2) to provide rental assistance for qualifying low-income families. The voucher assistance is attached to the structure, rather than to the tenant, as occurs in the tenant-based voucher program.

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public Assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**Public Housing Agency (PHA).** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**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.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The Receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining Member of Tenant Family.** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

**Residency Preference.** A FH preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“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 certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

**Section 8 Homeownership Program.** The S8 Homeownership option is used to assist existing Housing Choice Voucher (HCV) program participants to purchase a home using mortgage subsidy rather than rental subsidy. Under this subsidy option, FH will pay a monthly homeownership assistance payment. For further information, see Chapter 21 of this Administrative Plan.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended

**Section 214 covered programs** is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

**Security Deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges.** In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

**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 §982.615 to §982.618.

**Shelter Plus Care Program.** Not a Section 8 program, this program is funded by grants under the Steward B. McKinney Homeless Assistance Act. The program is designed to link rental assistance to supportive services for homeless individuals with disabilities and/or their families.

**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 §982.602 to §982.605.

**Social Security Number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on FH waiting list or without considering the applicant's waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified Welfare Benefit Reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A

reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage 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 FH to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension.** Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If FH decides to allow extensions or suspensions of the voucher term, FH administrative plan must describe how FH determines whether to grant extensions or suspensions, and how FH determines the length of any extension or suspension. This practice is also called "tolling".

**Tenancy Addendum.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See "Family rent to owner".

**Term of Lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total Tenant Payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**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 FH 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.

**Vacancy Loss Payments.** (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies FH as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

**Very Low Income Family.** A low-income family whose annual income does not exceed 50% 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% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

**Veteran.** See Chapter 3 of this Administrative Plan regarding for the definition of veteran as it relates to a local preference. See Chapter 4 regarding its definition in regarding the restriction on eligibility of students.

**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 FH to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for FH 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 admission.** An admission from FH waiting list.

**Welfare assistance.** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

**Welfare-to-work (WTW) family.** A family assisted by a PHA with Voucher funding awarded to the HA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).



## TERMS SPECIFIC TO THE FAMILY UNIFICATION PROGRAM

### FUP DEFINITIONS

The key definitions for the Family Unification Program are:

Lack of Adequate Housing is defined as:

1. A family or youth is living in substandard or dilapidated housing;
2. A family or youth is homeless;
3. A family or youth is in imminent danger of losing their housing;
4. A family or youth is displaced by domestic violence;
5. A family or youth is living in an overcrowded unit; or family or youth is living in housing not accessible for the family's disabled child or children, or to the youth, due to the nature of the disability.

Dilapidated Housing A family or youth is living in a housing unit that is dilapidated if the unit where the family or youth lives does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family or youth, or the unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require 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.

Displaced by Domestic Violence - A family or youth is displaced by domestic violence if:

- a. The family or youth has vacated a housing unit because of domestic violence;
- or
- b. The family or youth lives in a housing unit with a person who engages in domestic violence, or lives in a housing unit whose location is known to a person who has engaged in domestic violence, and moving from such housing unit is needed to protect the health or safety of the family or youth.

Domestic Violence means: felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

FUP-Eligible Family - A family that the public child welfare agency (PCWA) has certified as a family 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 in the delay of discharge of a child, or children, to the family from out-of-home care, and that the Public Housing Agency (PHA) has determined is eligible for a Housing Choice Voucher (HCV).

FUP-Eligible Youth - A youth that the public child welfare agency (PCWA) has certified to be at least 18 years old and not more than 21 years old (has not reached his/her 22nd birthday) who left foster care at age 16 or older and who does not have adequate housing, and that the PHA has determined is eligible for HCV.

Homeless - A homeless family includes any person (including a youth) or family that:

- a. Lacks a fixed, regular, and adequate nighttime residence; and
- b. Has a primary nighttime residence that is:
  1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);
  2. An institution that provides a temporary residence for persons intended to be institutionalized; or
- c. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Imminent Danger of Losing Housing - A family or youth is considered to be in imminent danger of losing their housing if the family or youth will be evicted within a week from a private dwelling unit, no subsequent residence has been identified, and the family or youth lacks the resources and support networks needed to obtain housing.

Living in Overcrowded Housing - A family or youth is considered to be living in an overcrowded unit if it meets the following separate criteria for a family or youth as follows:

- a. The family is separated from its child (or children) and the parent(s) are living in an otherwise standard housing unit, but, after the family is re-united, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
- b. 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 the imminent placement of its child (or children) in out-of-home care; or the youth is living in a unit that is overcrowded.
- c. The youth is living in a unit that is overcrowded.

For purposes of the above paragraph, the PHA may determine whether the unit is "overcrowded" in accordance with PHA subsidy standards.

**Public Child Welfare Agency (PCWA)** - Is the public agency that is responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family, or that a youth left foster care at age 16 or older and is at least 18 years old and not more than 21 years old.

Substandard Housing – A family or youth is living in substandard housing if the unit where the family or youth lives:

- a. Is dilapidated;
- b. Does not have operable indoor plumbing;
- c. Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth;
- d. Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth;
- e. Does not have electricity, or has inadequate or unsafe electrical service;
- f. Does not have a safe or adequate source of heat;
- g. Should, but does not, have a kitchen; or
- h. Has been declared unfit for habitation by an agency or unit of government.