

# H A C F M

## ADMINISTRATIVE PLAN

### SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

*The Housing Authority of the City of Fort Myers*

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## **Chapter 1**

### **STATEMENT OF POLICIES AND OBJECTIVES**

#### **INTRODUCTION**

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, is described in and implemented throughout this Administrative Plan. The Section 8 tenant-based assistance programs are federally funded and administered for The **Housing Authority of the City of Fort Myers (HACFM)**.

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

#### **Jurisdiction**

The jurisdiction of the HACFM is **the county of Lee**.

#### **\*A. HOUSING AUTHORITY MISSION STATEMENT**

The mission of the Housing Authority of the City of Fort Myers is the same as that of the Department of Housing and Urban Development: To promote adequate and affordable housing, economic opportunity and suitable living environment for the families we serve, without discrimination. The Housing Authority of the City of Fort Myers (HACFM) – a professional housing management governmental corporation-owns, manages, develops and administers federal, state and local housing and social programs for low, very low and moderate income families while successfully implementing national housing policies incorporating family self-sufficiency as a main component for transitioning families from welfare to work. The Authority's focus is to change the face of public housing by transforming Fort Myers' most severely distressed public housing sources of urban blight to engines of urban renewal creating paradigm shifts in public housing culture, values and behavior through establishing positive incentives for resident self-sufficiency, providing comprehensive services that empower residents, while lessening concentrations of poverty, promoting mixed-income communities while assuring equal access to safe quality housing for low, very low, and moderate income families throughout the community.

**B. LOCAL GOALS** [24 CFR 982.1]

*NOTE: These goals should reflect the Agency Plan five year goals.*

**Part I**

**\* HUD Strategic Goal: Increase the availability of decent, safe, and affordable housing.**

**PHA Goal: Expand the supply of assisted housing**

**Objectives:**

Apply for additional rental vouchers:

**PHA Goal: Improve the quality of assisted housing**

**Objectives:**

Improve voucher management: (SEMAP score) \_\_\_\_\_

Increase customer satisfaction:

**PHA Goal: Increase assisted housing choices**

**Objectives:**

Provide voucher mobility counseling:

Conduct outreach efforts to potential voucher landlords

Increase voucher payment standards

Implement voucher homeownership program:

**\* HUD Strategic Goal: Improve community quality of life and economic vitality**

**PHA Goal: Provide an improved living environment**

**Objectives: To improve accessibility to resources.**

Provide support to the Resource Center which brings resources closer to families in the promotion of economic self sufficiency.

**\* HUD Strategic Goal: Promote self-sufficiency and asset development of families and individuals**

**PHA Goal: Promote self-sufficiency and asset development of assisted households**

**Objectives: To move families completely from rental assistance to home ownership.**

Increase the number and percentage of employed persons in assisted families:

Provide or attract supportive services to improve assistance recipients' employability:

Provide or attract supportive services to increase independence for the elderly or families with disabilities.

**Organizational Structure of the PHA:**

A board of officials that are generally called “commissioners” governs the PHA. Although some PHA’s may use a different title for their officials, this document will hitherto refer to the “Board of Commissioners” as the “Board” when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which the PHA conducts business, and ensures that those policies are followed by PHA staff. The board is responsible for preserving and expanding the agency’s resources and assuring the agency’s continued viability and

success. Formal actions of the PHA are taken through written resolutions, adopted by the board and entered into the official records of the PHA

The principal staff member of the PHA is the Executive Director (E.D.), who is selected and hired by the board. The E.D. oversees the day-to-day operations of the PHA and is directly responsible for carrying out the policies established by the commissioners. The E.D.'s duties include hiring, training, and supervising the PHA's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws and program mandates.

**Organizational Chart for the Section 8 Department:**

Board of Commissioners

Executive Director

Section 8 Housing Choice Voucher Director

Section 8 Staff

**\* HUD Strategic Goal: Ensure Equal Opportunity in Housing for all Americans**

**PHA: Ensure equal opportunity and affirmatively further fair housing**

**Objectives: Fair housing will be promoted through various seminars, training, posters and pamphlets in collaboration with Lee County Equal Opportunity**

Undertake affirmative measures to ensure access to assisted housing regardless of race, color, religion national origin, sex, familial status, and disability:

Undertake affirmative measures to provide a suitable living environment for families living in assisted housing, regardless of race, color, religion national origin, sex, familial status, and disability:

Undertake affirmative measures to ensure accessible housing to persons with all varieties of disabilities regardless of unit size required

**Part II**

The PHA has the following goals for the program:

1. To encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
2. To create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA's mission.

3. To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.
4. To administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development.
5. To provide decent, safe, and sanitary housing for very low income families while maintaining their rent payments at an affordable level.
6. To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.
7. To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
8. 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.

### **C. PURPOSE OF THE PLAN** [24 CFR 982.54]

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

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

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

Applicable regulations include:

24 CFR Part 5: General Program Requirements

24 CFR Part 8: Nondiscrimination

24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

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

**D. ADMINISTRATIVE FEE RESERVE** [24 CFR 982.54(d)(21)]

Expenditures from the Administrative Reserve (Operating Reserve) for other housing purposes shall not exceed **\$0 dollar** per occurrence nor more than **\$0 dollar** in the aggregate for each fiscal year without the prior approval of the **Housing Authority of the City of Fort Myers** Board of Commissioners

**E. RULES AND REGULATIONS** [24 CFR 982.52]

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

**F. TERMINOLOGY**

The Housing Authority of the City of Fort Myers (HACFM) is referred to as "PHA" or "Housing Authority" throughout this document.

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

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

"Landlord" and "owner" are used interchangeably.

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

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

The Section 8 programs are also known as the Regular Tenancy Certificate, Over-FMR Tenancy (OFTO) and Voucher Programs. The Housing Choice Voucher Program refers to the merged program effective as of 10/1/99.

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

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

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

See Glossary for other terminology.



**G. 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.

The HACFM shall not discriminate any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial **or marital** status, handicap or disability **or sexual orientation**.

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

All Housing Authority staff will be required to attend fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the Housing Authority office/s, including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organization to keep current with new developments.

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 the HACFM's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the HACFM's office in such a manner as to be easily readable from a wheelchair.

The Housing Authority of the City of Fort Myers' office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the **TTD/TDY telephone line (239) 332-6111**.

## **H. REASONABLE ACCOMMODATIONS POLICY** [24 CFR 100.202]

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

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before the HACFM will treat a person differently than anyone else. The HACFM's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on HACFM forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the HACFM, when the HACFM initiates contact with a family including when a family applies, and when the HACFM schedules or reschedules appointments of any kind.

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

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

A record of such impairment; or

Being regarded as having such an impairment

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

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

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

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

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

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

The HACFM will provide a written decision to the person requesting the accommodation within **10 days**. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the PHA's decision.

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

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

### **Verification of Disability**

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

### **Outreach**

Outreach efforts will include notification of the PHA's 504 Advisory Board as well as all other media and agencies listed in the PHA's Administrative Plan regarding public notices (see section on opening and closing the waiting list in "Applying for admission" chapter.)

### **Applying for Admission**

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

To provide specific accommodation to persons with disabilities, upon request, the information may be mailed to the applicant and, if requested, it will be mailed in an accessible format.

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

## **I. TRANSLATION OF DOCUMENTS**

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

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

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

### **Improving Access to Services for Persons with Limited English Proficiency (LEP)**

Language for Limited English Proficiency Persons (LEP) can be a barrier for accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients regarding Title VI Prohibition Affecting Limited English Proficient persons, published December 19, 2003 in the Federal Register.

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

LEP Persons are 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 the Administrative Plan, LEP persons are Section 8 applicants and participant families, parents and family members of applicants and participants.

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

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the Section 8 Housing program;
2. The frequency in which LEP persons come into contact with the program;

3. The nature and importance of the program, activity, or service provided by the program to people's lives;
4. The resources available to the PHA and cost

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

## **J. MANAGEMENT ASSESSMENT OBJECTIVES**

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

Selection from the Waiting List

Reasonable Rent

Determination of Adjusted Income

Utility Allowance Schedule

HQS Quality Control Inspections

HQS Enforcement

Expanding Housing Opportunities

Payment Standards

Annual Re-examinations

Correct Tenant Rent Calculations

Pre-Contract HQS Inspections

Annual HQS Inspections

Lease-up

Family Self-Sufficiency Enrollment and Escrow Account Balances

Bonus Indicator Deconcentration

Supervisory quality control reviews will be performed by a HACFM Supervisor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

Selection from the waiting list

Rent reasonableness

Determination of adjusted income

HQS Enforcement

HQS Quality Control

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail.

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

#### **7K. RECORDS FOR MONITORING HACFM PERFORMANCE**

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

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

Not less than **5% percent** of reexaminations

Not less than **5% percent** of new applications

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

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

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

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

for access and granting of accommodations based on this information must be approved by the Section 8 Coordinator or higher.

The PHA'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.

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

#### **M. FAMILY OUTREACH**

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

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

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

#### **N. OWNER OUTREACH** [24 CFR 982.54(d)(5)]

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

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

The PHA encourages participation by owners of suitable units located outside areas of low poverty or minority concentration.

The PHA conducts **annual** meetings with participating owners to improve owner relations and to recruit new owners.

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

The PHA will maintain lists of available housing submitted by owners in all neighborhoods within the Housing Authority's jurisdiction to ensure greater mobility and housing choice to very

low income households. The lists of units will be [provided at the front desk or mailed on request and provided at briefings.

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

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

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

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

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

The PHA works with a nonprofit agency through the regional counseling program who contacts others in the area, identifies families in the program, and counsels the families on their prospective move and services available in the areas in which the family is interested.

The PHA shall periodically:

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

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

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





## Chapter 2

### ELIGIBILITY FOR ADMISSION

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

#### **INTRODUCTION**

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

#### **A. ELIGIBILITY FACTORS** [982.201(b)]

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

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

The HUD eligibility criteria are:

An applicant must be a "family"

An applicant must be within the appropriate Income Limits

An applicant must furnish Social Security Numbers for all family members

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

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

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

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

\* Eligibility factors will be verified before the family is placed on the waiting list.

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

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

The applicant must qualify as a Family. A Family may be a single person or a group of persons.

A family includes a family with or without a child or children. A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family. The HACFM determines if any other group of persons qualifies as a family.

A single person family may be:

An elderly person

A displaced person

A person with a disability

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

Any other single person

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

A family also includes:

Two or more persons who intend to share residency whose income and resources are available to meet the family's needs.

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

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

### **Head of Household**

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

### **Spouse of Head**

Spouse means the husband or wife of the head.

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

### **Co-Head**

A Co-Head is 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.

### **Live-in Attendants**

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

Is determined by the HACFM to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,

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

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

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

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

Live-in aides are not subject to Non-Citizen Rule requirements.

Live-in aides may not be considered as a remaining member of the tenant family.

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

A Live in Aide may only reside in the unit with the approval of the HACFM. 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, near-elderly (50-61) or disabled.

The PHA will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 1 of this administrative plan.

24 CFR 982.316 At any time, the PHA will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

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

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

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

### **Split Households Prior to Voucher Issuance**

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

Which family member applied as head of household.

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

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

Role of domestic violence in the split.

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

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

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

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

### **Multiple Families in the Same Household**

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

### **Joint Custody of Children**

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

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

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

To be eligible for assistance, an applicant must:

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

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

To be income eligible the family may be under the low-income limit in any of the following categories: [24 CFR 982.201(b)]

A very low-income family.

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 **60** days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act.

A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.

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

A low-income non-purchasing family residing in a project subject to a home-ownership program under 24 CFR 248.173.

A low-income family or moderate income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.

A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program.

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

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

**Multi-jurisdictional PHAs: The applicable income limit used for initial issuance of a voucher is the highest income limit within the PHA's jurisdiction.**

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

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

Families are required to provide verification of Social Security Numbers for all family members prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Number.

Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within 60 days. Elderly persons must provide verification within 120 days.

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

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

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

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

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

Non-citizen students. Defined by HUD in the non-citizen regulations at 24 CFR 5.522. Not eligible for assistance.

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

#### **Verification of Status Before Admission**

The PHA **will not** provide assistance to families prior to the verification of eligibility for the individual or at least one member of the family pursuant to this section.

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

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past 5 years.

A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the PHA, including Form HUD-9886.

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

The family must not have violated any family obligation during a previous participation in the Section 8 program for 5 years prior to final eligibility determination.

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



The family must pay any outstanding debt owed the PHA or another PHA as a result of prior participation in any federal housing program within 10 days of PHA notice to repay.

The family must be in good standing regarding any current payment agreement made with another PHA for a previous debt incurred, before this PHA will allow participation in its Section 8 program.

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

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

#### **G. TENANT SCREENING** [24 CFR 982.307)]

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

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

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

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

- Payment of rent and utility bills

- Caring for a unit and premises

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

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

- Compliance with other essential conditions of tenancy.

The HACFM will give the owner:

- The family's current and prior address as shown in the HACFM's records; and

- The name and address (if known by the HACFM) of the landlord at the family's current and prior address.

The same types of information will be supplied to all owners.

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

### **Qualified and Unqualified Applicants**

Information that has been verified by the HACFM will be analyzed and a determination will be made with respect to determining eligibility as

- a family
- income limits for admission status;
- citizenship or eligible immigration status,
- non-criminal background requirements
- Preference category

Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals process to which they are entitled under both INS and PHA procedures, except for a pending PHA hearing.

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

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

### **I. INELIGIBLE FAMILIES**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

### **J. PROHIBITED ADMISSIONS CRITERIA** [982.202(b)]

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

Admission to the program may not be based on:

Where a family lives prior to admission to the program.

Where the family will live with assistance under the program.

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

Discrimination because a family includes children.

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

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

## **Chapter 3**

### **APPLYING FOR ADMISSION**

[24 CFR 982.204]

#### **INTRODUCTION**

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

#### **A. OVERVIEW OF THE APPLICATION TAKING PROCESS**

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

Families who wish to apply for any one of the HACFM's programs must apply online at [www.hacfm.org](http://www.hacfm.org) and complete application form when application-taking is open. Applications will be made available in an accessible format upon request from a person with a disability.

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to apply online at [www.hacfm.org](http://www.hacfm.org).

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

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

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

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

The HACFM will utilize the following procedures for opening the waiting list:

When the HACFM opens the online waiting list, the HACFM will advertise through public notice to the following agencies and or media entities, location(s), and program(s) for which applications are being accepted:

- **Fort Myers News-Press**
- **The Community Voice**
- **Goodwill Industries**
- **Senior Friendship Center**
- **All Social Service Agencies**

The notice will contain:

The dates, times, and the online address where families may apply.

The programs for which applications will be taken.

A brief description of the program.

A statement that public housing residents must submit a separate application if they want to apply for section 8.

Limitations, if any, on who may apply.

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

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

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

### **Closing the Waiting List**

The HACFM may stop applications if there are enough applicants to fill anticipated openings for the next **12** months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

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

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next **12** months. The HACFM will give at least three days' notice prior to closing the list. When the period for accepting applications is over, the HACFM will add the new applicants to the list by:

- **Preference, date and time**

### **Limits on Who May Apply**

When the waiting list is open:

- Any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.
- Depending upon the composition of the waiting list with regard to family types and preferences and to better serve the needs of the community, the HACFM may only accept applications from any family claiming preference(s).

When the application is submitted to the HACFM:

- It establishes the family's date and time of application for placement order on the waiting list.

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

The HACFM will utilize an online **pre-application form**. The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, the information may be completed by a staff person over the telephone. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format

The purpose of the online pre-application is to permit the HACFM to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The online pre-application will contain at least the following information:

- Names of head of household, spouse or Co-head
- Names of all members including age and date of birth
- Number of family members (used to determine bedroom size needed)
- Physical street address and phone numbers
- Mailing address (if different from physical address)
- Monthly (or annual) Income
- Source of income received by all household members
- Social Security Numbers
- Race/Ethnicity
- Arrests/Convictions for Drug-Related or Violent Criminal Activity
- Questions regarding previous participation in HUD programs

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

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

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

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

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

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

This written notification of preliminary eligibility will be:

- **mailed to the applicant by first class mail**

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

**E. TIME OF SELECTION** [24 CFR 982.204]

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

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

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



## **F. COMPLETION OF A FULL APPLICATION**

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

- **After the family is selected from the waiting list and prior to completing the full application**
- **Whenever the family claims a preference**

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

After the preference is verified, when the HACFM is ready to select applicants, applicants will be required to:

- Complete a full application in their own handwriting, unless assistance is needed, or a request for accommodation is made by a person with a disability. Applicant will then be interviewed by HACFM staff to review the information on the full application form.
- Participate in a full application interview with a HACFM representative during which the applicant will be required to furnish complete and accurate information verbally as requested by the interviewer. The HACFM interviewer will complete the full application form with answers supplied by the applicant. The applicant will sign and certify that all information is complete and accurate.

The full application will be completed when the applicant attends the interview.

## **Requirement to Attend Interview**

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

- All adult family members are required to attend the interview and sign the housing application.
- Exceptions may be made for students attending school out of state/for members for whom attendance would be a hardship.
- The head of household is required to attend the interview.
- If the head of household cannot attend the interview, the spouse may attend to complete the application and certify for the family. The head of household, however, will be required to attend an interview within 10 days to review the information and to certify by signature that all of the information is complete and accurate.
- It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses 2 scheduled meetings, the HACFM will reject the application.
- Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than 3 days from the original appointment date except in cases of emergencies. The request must be made to the staff person who scheduled the appointment.
- If an applicant fails to appear for their interview without prior approval of the HACFM, their application will be denied unless they can provide acceptable documentation to the HACFM that an emergency prevented them from calling.

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

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

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

Every adult household member must sign a consent form to release criminal conviction records and to allow HACFMs to receive records and use them in accordance with HUD regulations.

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

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

#### **G. VERIFICATION** [24 CFR 982.201(e)]

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

The HACFM will verify information through these five methods of verification acceptable to HUD in the following order:

1. **Upfront Income Verification (UIV):** The verification of income at admission or before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals. HUD's **Enterprise Income Verification System (EIV)** is considered to be this method
2. **Third-Party Written:** This method used to verify information directly with the source to substantiate claims made by the family. This verification form is to be sent and received directly from the source and not to be handled by the applicant or participant.
3. **Third-Party Oral:** Oral third-party verification will be used when written third-party verification is delayed or not possible. The most common method will be by telephone.

4. Review of Documents: The HACFM will review documents, when relevant to substantiate the claim of an applicant or participant.
5. Self-Certification/Declaration: When verification cannot be made by the first four methods, families will be required to submit self-certification. This is to be a notarized statement; or a statement written and signed by the family member in the presence and witnessed by an authorized HACFM representative.

If third-party verification is not received directly from the source, HACFM staff will document the file as to why third-party verification was impossible to obtain and another method was used (such as reviewing documents families provide)

The HACFM will not delay the processing of an application beyond ten (10) working days because a third party information provider does not return the verification in a timely manner.

Regardless of these timeframes, criminal history reports will be used as a valid verification for no longer than six (6) months.

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

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

## **Chapter 4**

### **ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST**

[24 CFR Part 5, Subpart D; 960.206, 982.54(d)(1); 982.204, 982.205, 982.206, 982.207]

#### **INTRODUCTION**

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

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

#### **A. WAITING LIST [24 CFR 982.204]**

The HACFM uses the following waiting lists:

1. Housing Choice Voucher (HCV) Program
2. Project Based Voucher Program
  - Individual developments where PBV program applies

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

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

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

Applicant name

Family unit size (number of bedrooms family qualifies for under HACFM subsidy standards)

Date and time of application

Qualification for any local preference

Racial or ethnic designation of the head of household

\*Annual (gross) family income

\*Number of persons in family

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

If HUD awards HACFM program funding that is targeted for specific families living in specified units, the HACFM will admit these families under a Special Admission procedure.

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

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

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

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

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

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

- A non-purchasing family residing in a HOPE I, HOPE II, or HOPE VI project.

Applicants, who are admitted under Special Admissions, rather than from the waiting list, **are not** maintained on separate lists.

### **Witness Relocation Program**

#### **Summary:**

The Witness Relocation Program provides rental assistance in the form of Section 8 housing vouchers for the relocation of witnesses in connection with efforts to combat violent crimes that occur in and around public, Indian, and other HUD-assisted housing. Since its inception in 1996, HUD's Office of Inspector General (OIG) has used this program to successfully relocate hundreds of witnesses and their families throughout the United States.

#### **Purpose:**

The Witness Relocation Program is designed to offer protection to persons who are cooperating as witnesses in the government's efforts to combat violent crimes occurring in and around public, Indian, and other HUD-assisted housing. Law enforcement agencies, with the written concurrence of the appropriate prosecutorial entity, may request the emergency relocation of a witness (and their immediate family) that is assisting law enforcement in a criminal matter and fears retribution, or has been threatened as a result of the assistance and/or testimony provided.

The OIG facilitates the protection of witnesses by removing them and their immediate families from potential danger and relocating them to a secure area selected by the OIG in cooperation with the relevant federal, state, tribal, or local law enforcement agencies.

**Eligible Customers:**

Witnesses to violent crimes occurring in or around public, Indian, or other HUD-assisted housing that cooperate with the relevant governmental law enforcement and prosecutorial agencies in their investigation and prosecution of the perpetrators are eligible for the program. The witness (and their immediate family) is not required to be a current resident of the aforementioned HUD-assisted housing in order to be considered eligible for the Witness Relocation Program, but must be otherwise eligible to receive Section 8 housing voucher assistance. Final determination of program eligibility is made by the OIG and HUD's Office of Public and Indian Housing.

**C. WAITLIST PREFERENCES [24 CFR 982.207]**

**PREFERENCE DEFINED**

The preferences recognized by HACFM are: (All preferences will be verified)

1. **Project Based Voucher Client requesting a Housing Choice Voucher – 90 Points**

A family Currently residing in a Project Based unit may request, in writing, a Housing Choice Voucher after successfully fulfilling the first year of tenancy in the Project based unit.

A family who successfully fulfilled the lease and gave proper notice to vacate will also be eligible as long as the family requested, in writing, a Housing choice voucher prior to vacating

To be eligible for the voucher, the Family:

- a. Must have completed the first-year lease at the Project Based Unit
- b. Must be in good standing with the landlord
- c. Does not owe any debt to the landlord for rent, utilities or damages.

2. **Emergency/Federally Displaced Preference - 40 Points**

The HACFM shall grant preferences to families of federally declared disasters who are public housing residents from another jurisdiction and other eligible disaster-affected families who are income eligible. This preference will remain in place until the emergency no longer exists or the displaced status (of the family) no longer exists.

Families that apply under this preference when the waitlist is closed and upon eligibility verification reveal they no longer qualify as displaced for the preference, will be removed from the waitlist.

Families that were on the waitlist PRIOR to requesting the preference, and no longer qualify for the preference, will have the preference points removed but remain on the waitlist in the original date/time order.

3. **Displaced Person by State/Local Government Action or HOPE VI/Subsidized Housing Demolition - 30 Points**

Individuals or families displaced by State/Local Government action or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal Relief Laws.

4. **Veterans Status - 20 Points**

Preference shall be given to Veterans or servicemen as defined by Florida Statutes (FL295.01): A "veteran" or a "serviceman" means a person who has served in the Armed Forces of the United States at anytime and, in the case of a veteran, has been discharged or released there from under conditions other than dishonorable, or in the case of a serviceman, is presently in the Armed Forces of the United States. The preference granted to Veterans or servicemen as defined by FL S315.300, shall be extended to include families of veterans and servicemen. A family of a veteran or serviceman is therefore further defined as follows:

The veteran or serviceman is (a) either the Head of Household or is related to the Head of Household; or (b) deceased and was related to the Head of Household, and was a family member at the time of death or (c) the veteran or serviceman, unless deceased, is living with the family or is only temporarily absent unless he/she was (1) formerly the Head of Household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided the family has not remarried; or (2) not the Head of Household but is permanently hospitalized; provided that he/she was a family member at the time of hospitalization and there remains in the family at least two (2) related persons.

5. **Mainstream Vouchers - 18 Points**

HACFM will offer a preference to Any Household that Includes one or more non-elderly person (age 18 to 62) with disabilities that are;

- **Transitioning out of institutional or other segregated settings** that include, but are not limited to:

- (1) congregate settings populated exclusively or primarily with individuals with disabilities;
- (2) congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or
- (3) settings that provide for daytime activities primarily with other individuals with disabilities.

- **At serious risk of institutionalization or other segregated settings;** Includes an individual with a disability who as a result of a public entity's failure to provide



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

- **Homeless**

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

(i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or

(iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(2) An individual or family who will imminently lose their primary nighttime residence, provided that:

(i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

(ii) No subsequent residence has been identified

- **At risk of becoming homeless** Meets one of the following conditions:

(1) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(2) Is living in the home of another because of economic hardship; 9 of 32

(3) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;

(4) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;

(5) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

(6) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction

program or institution); or

(7) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness

HACFM will except the coordinated referral from partner agencies and local HMIS as well as individuals claiming a preference. HACFM will require documentation to verify preference.

#### 6. **Homeless Preference – 15 Points**

HACFM will issue not more than 50 Homeless Preference Vouchers to homeless families per year pending funding availability. A family that is considered to be homeless as defined by Lee County Department of Human Services Lift Program and or The Salvation Army and must be a client of Lee County Department of Human Services Lift Program or the Salvation Army homeless population. These households require initial, intermittent or ongoing supportive services from one or more community based service providers to obtain and retain stable, adequate and safe housing.

Homeless means a family who lacks a fixed, regular, and adequate nighttime residence or a family who has a primary nighttime residence that is:

- (a) A Supervised publically or privately operated shelter designed to provide temporary living accommodations, including congregate shelters and transitional housing;
- (b) An institution that provides a temporary residence for individuals 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.

The term Homeless does not refer to any individual imprisoned or otherwise detained pursuant to state or federal laws.

#### 7. **Victims of Domestic Violence (VAWA) - 10 Points**

HACFM will offer a preference to families/persons that have been subjected to or a victim of domestic violence, dating violence, sexual assault, or stalking. HACFM will require documentation that the family has been displaced as a result of fleeing domestic violence, dating violence, sexual assault, or stalking. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home.

- 1. Actual or threatened physical violence directed against the applicant or the applicant's family, spouse or other household member who lives in the unit with the family. The actual violence must have occurred within the past six (6) months or be of a continuing nature.
- 2. An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is NOT considered involuntarily displaced.
- 3. To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser WILL NOT reside with the applicant. If the abuser returns to live with the family without approval,

HACFM will deny and or terminate assistance for breach of the certification.

4. Acceptable forms of documentation you are or have been a victim of domestic violence, dating violence, sexual assault or stalking:
  1. All requests must be in writing and provided to HACFM within 14 business days from the day you receive the request to provide the documentation. Failure or refusal to provide one of the documents listed below within 14 days of the request will result in no preference given. If HACFM receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault or stalking has been committed, HACFM will request that you provide third-party documentation within 30 calendar days in order to resolve the conflict. If you fail or refuse to supply third-party documentation where there is conflicting evidence HACFM will not provide you the preference.
  2. Completed HUD form 5382 – Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking; OR
  3. A Federal, State, Tribal or Local law enforcement agency, court, or administrative agency that documents domestic violence, dating violence, sexual assault or stalking (police reports, protective order, and restraining orders) ; OR
  4. A statement which you must sign along with a signature of an employee, agent or volunteer of a victim service provider, an attorney, a medical professional or mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he/she believes that the incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
  5. Certified letter from the Abuse, Counseling and Treatment Center (ACT).

8. **Local Preference – 5 Points**

1. Persons and or families must reside in Lee County or who are working or have been hired to work in Lee County.
2. Applicant must provide proof of residency to HACFM upon request and before Voucher issuance. Example of proof of Lee County residency or Lee County employment would be:
  - Signed lease agreement and utility bill in applicants name
  - School or graduation records for applicant
  - Voter registration Card
  - Drivers License and Proof of Current home address
  - Employment records that document employment in Lee County
  - Letter from Employer stating your current or future hire date in Lee County

9. **All Other Applicants - 0 Points**

No preference

**\*\*\*The qualification for any of the above mentioned preferences MUST exist at the time the preference is verified regardless of the length of time an applicant has been on the waitlist. The preference is based on current status of the family at the time of determination of eligibility.**

**D. INCOME TARGETING**

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the HACFM will reserve a minimum of seventy-five percent (**75%**) of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as "extremely low-income families." The HACFM will admit families who qualify under the Extremely Low Income limit to meet the income targeting requirement, regardless of preference.

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

The HACFM is also exempted from this requirement where the HACFM is providing assistance to low income or moderate income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out.

**E. TARGETED FUNDING [24 CFR 982.203]**

When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

Applicants who are admitted under targeted funding which are not identified as a Special Admission the HACFM has the following "Targeted" Programs:

**The PHA does not have any targeted programs.**

**F. PREFERENCE AND INCOME TARGETING ELIGIBILITY [24 CFR 982.207]**

**Change in Circumstances**

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

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

**Cross-Listing of Different Housing Programs and Section 8** [24 CFR 982.205(a)]

**The HACFM does have other housing programs.**

- Public Housing Developments
- Housing Choice Voucher Program
- Project Based Voucher Program
- Neighborhood Stabilization Program Developments (NSP)

**Other Housing Assistance** [24 CFR 982.205(b)]

Other housing assistance means a federal, State or local housing subsidy, as determined by HUD, including public housing.

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

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

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

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

Remove the applicant from the waiting list.

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

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

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

- HCV Program - Preference Date and Time
- PBV Program - Bedroom Size, Preference, Date and Time

## **H. FINAL VERIFICATION OF PREFERENCES [24 CFR 982.207]**

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

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

## **I. PREFERENCE DENIAL [24 CFR 982.207]**

If HACFM denies a preference, HACFM will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for a review. **Applicant will have 10 working days to request a review with the Section 8 Director or their designee.** If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference (if the family was on the waiting list prior to claiming the preference). Applicants may exercise other rights if they believe they have been discriminated against.

**\* If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the waiting list.**

## **J. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(c)]**

The Waiting List will be purged at least one time each year by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant which require a response will state that failure to respond within [10] days will result in the applicant's name being dropped from the waiting list.

An extension of [10] days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If they fail to respond within [10] days, they will be removed from the waiting list.

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

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

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Section 8 Director determines there were circumstances beyond the person's control.

## Chapter 5

### SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

#### **INTRODUCTION**

HUD guidelines require that HACFM's establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards. This Chapter explains the subsidy standards which will be used to determine the voucher size (family unit size) for various sized families when they are selected from the waiting list, as well as the HACFM's procedures when a family's size changes or a family selects a unit size that is different from the Voucher.

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

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

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

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

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

- **A single individual will be issued a 1-bedroom Voucher**
- **A single individual with an infant will be issued a 1-bedroom until the child reaches age 2**
- **Separate bedrooms may be allocated for persons of the opposite sex (other than adults who have a spousal relationship and for children under the age of 5). Children of the opposite sex may share a bedroom if both are under age 5.**
- **Adults of different generations will have a separate bedroom.**

**\* Generally, the HACFM assigns one bedroom to two people within the following guidelines:**

- **Foster children will be included in determining unit size only if they will be in the unit for more than [6] months.**
- **Live-in attendants will be considered in determining bedroom size voucher following the same subsidy standards. No additional bedrooms are provided for the attendant's family.**
- **Space will not be provided for a child who is away at school.**
- **A single pregnant woman with no other family members must be treated as a two-person family for occupancy standards only.**
- **Single person families shall be allocated [one] bedroom.**

**If the unit size for which the family is eligible changes during the term of the HAP contract, the “new” unit size is applicable at the first regular reexamination following the change.**

#### **GUIDELINES FOR DETERMINING VOUCHER SIZE**

<b>Voucher Size</b>	<b>Persons in Household</b>	
	<b>Minimum Number</b>	<b>Maximum Number</b>
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	6	8
5 Bedrooms	8	10
6 Bedrooms	11	12



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

The HACFM shall grant exceptions from the subsidy standards if the family requests and the HACFM determine the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

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

- \* Verified medical or health reason; or**
- \* Elderly persons or persons with disabilities who may require a live-in attendant.**

### **Request for Exceptions to Subsidy Standards**

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

**\* The HACFM will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.**

Requests based on health related reasons must be verified by a [doctor/medical/professional/social service professional].

### **HACFM Error**

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

### **Changes for Applicants**

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

### **Changes for Participants**

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

### **Underhoused and Overhoused Families**

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

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

- \* If a family with a disability is under housed in an accessible unit.**
- \* If a family requires the additional bedroom because of a health problem which has been verified by the HACFM.**
- \* The HACFM and family have been unable to locate a unit within [60] days.**

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

The family may select a larger size dwelling unit than that listed on the Voucher Size. There are three criteria to consider: The family may select a smaller size unit in accordance with HQS standards.

A family which receives a housing voucher can select a unit with a rent that is below or above the payment standard. The housing voucher family must pay 30% of its monthly adjusted gross income for rent and utilities, and if the unit rent is greater than the payment standard the family is required to pay the additional amount. By law, whenever a family moves to a new unit where the rent exceeds the payment standard, the family may not pay more than 40 percent of its adjusted monthly income for rent. This is known as the 40% CAP.

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

The payment standard amount for the family unit size; or

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

Utility Allowance: The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Voucher.

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

**\*HQS GUIDELINES FOR UNIT SIZE SELECTED**

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

## **Chapter 6**

### **INCOME AND SUBSIDY DETERMINATIONS**

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

#### **INTRODUCTION**

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

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

## PART I: ANNUAL INCOME

### 6-I.A. OVERVIEW

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

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co head)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

### **Working Families:**

All employment income received by family members will be included as mentioned in the chart above. For purposes of calculating the Total Tenant Payment, the HACFM will require working families to remain employed in order to be eligible for continued participation in the HUD Section 8 HCV Program. The HACFM will assist in providing guidance to a family member that has lost their employment as mentioned in Chapter 12 of this plan. All working families must report changes in income to include changes of employment and employer.

### **Seeking Work:**

For the purpose of calculating income as a result of loss or lack of employment; the participant must provide HACFM proof of their attempts to locate an alternate employment within the next 30 days. The family will be given a set of forms to be completed by the employer or representative at the business in which the participant sought employment. The form must be completed only after the family has applied for a job. The participant must return this form to HACFM as proof of their efforts to seek employment. HACFM will only process a change of income if the family has applied for a minimum of 20 verifiable jobs. If a change is processed with the participant having absolutely no income then the family must be reevaluated on a monthly basis until employment is verified. Job search efforts must be verified every month until new employment income is verified. The HACFM may grant an exception due to the family's inability to work as a result of medical reasons.

## **Temporarily Absent Family Members**

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

### ***Absent Full-Time Students***

#### HACFM Policy

When someone who has been considered a family member attends school away from home and has established housing elsewhere, the person will not be considered a family member in determining voucher size and occupancy standards.

### ***Court-Ordered Absences***

#### HACFM Policy

If a member of the family is subject to a court order that restricts the member from the home, the HACFM will determine whether the person will be considered temporarily or permanently absent. If the court order specifies a permanent restriction or if the court restriction exceeds 180 days, the person will no longer be considered a family member. If the individual intends to return to the unit at the end of the restriction, the individual is subject to the eligibility and screening requirements discussed in Chapter 3 of this plan.

### ***Absences Due to Placement in Foster Care***

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

#### HACFM Policy

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

### ***Absences Due to Incarceration***

#### HACFM Policy

If a family member is expected to be incarcerated for more than 180 consecutive days, the person will not be considered a family member. If the individual intends to return to the unit following incarceration, the individual is subject to the eligibility and screening requirements discussed in Chapter 3 of this plan.

## **Family Members Permanently Confined for Medical Reasons**

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

### HACFM Policy

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

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

## **Joint Custody of Children**

### HACFM Policy

In the case of joint custody, only one family may claim a child as a dependent. When two assisted families could conceivably claim the child, the two families must resolve the issue and declare which household will receive the dependent deduction. If the two households are unable to resolve the issue, the HACFM will make the determination on the basis of such factors as who claimed the child as a dependent on the most recent income tax filing and how much time the child spends in each household.



## **Caretakers for a Child**

### HACFM Policy

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the HACFM will take the following actions.

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 60 days. After the 60 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the HACFM will extend the caretaker's status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

## 6-I.C. ANTICIPATING ANNUAL INCOME

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

### **Basis of Annual Income Projection**

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

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

### HACFM Policy

When the HACFM cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the HACFM 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. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the HACFM to show why the historic pattern does not represent the family’s anticipated income.

### ***Known Changes in Income***

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

**Example:** An employer reports that a full-time employee who has been receiving \$6/hour will begin to receive \$6.25/hour in the eighth week after the effective date of the reexamination. In such a case the HACFM would calculate annual income as follows:  $(\$6/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$6.25 \times 40 \text{ hours} \times 45 \text{ weeks})$ .

## Using Up-Front Income Verification (UIV) to Project Income

### HACFM Policy

HACFM procedures for anticipating annual income will include the use of EIV/UIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the HACFM interview date.

The HACFM will follow “HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (UIV) Data Is Available” in handling differences between UIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines *substantial difference* as a difference of \$200 or more per month.

**No Substantial Difference.** If UIV information for a particular income source differs from the information provided by a family by less than \$200 per month, the HACFM will follow these guidelines:

If the UIV figure is less than the family’s figure, the HACFM will use the family’s information.

If the UIV figure is more than the family’s figure, the HACFM will use the UIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the HACFM will use the family-provided information.

**Substantial Difference.** If UIV information for a particular income source differs from the information provided by a family by \$200 or more per month, the HACFM will follow these guidelines:

The HACFM will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

When the HACFM cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the HACFM will review historical income data for patterns of employment, paid benefits, and receipt of other income.

The HACFM will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

The HACFM will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

## **6-I.D. EARNED INCOME**

### **Types of Earned Income Included in Annual Income**

***Wages and Related Compensation.*** The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

#### HACFM Policy

For persons who regularly receive bonuses or commissions, the HACFM will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the HACFM will use the prior year amounts. In either case the family may provide, and the HACFM will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the HACFM will count only the amount estimated by the employer.

***Some Types of Military Pay.*** All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

### **Types of Earned Income Not Counted in Annual Income**

***Temporary, Nonrecurring, or Sporadic Income*** [24 CFR 5.609(c)(9)]. Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed. Such income is not counted.

***Children's Earnings.*** Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of *foster children*.)

***Certain Earned Income of Full-Time Students.*** Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or co head) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

***Income of a Live-in Aide.*** Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

***Income Earned under Certain Federal Programs.*** Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

**Resident Service Stipend.** Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the HACFM or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the HACFM's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

**State and Local Employment Training Programs.** Incremental earnings and benefits to any family member resulting 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 are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

#### HACFM Policy

The HACFM defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The HACFM defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the HACFM will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the HACFM's interim reporting requirements.

**HUD-Funded Training Programs.** Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

HACFM Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

**Earned Income Tax Credit.** Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

**Earned Income Disallowance.** The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

## **6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]**

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

### **Eligibility**

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.



## Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

### HACFM Policy

The HACFM defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

**Initial 12-Month Exclusion.** During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are **Consecutive** and not cumulative.

### HACFM Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

**Second 12-Month Exclusion.** During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are consecutive and not cumulative.

**Lifetime Limitation.** The EID has a 24month lifetime maximum. The two (2) year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

### HACFM Policy

During the 24month eligibility period, the HACFM will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

## **6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]**

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].

### **Business Expenses**

Net income is “gross income less business expense” [HCV GB, p. 5-19].

#### HACFM Policy

To determine business expenses that may be deducted from gross income, the HACFM will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

### **Business Expansion**

HUD regulations do not permit the HACFM to deduct from gross income expenses for business expansion.

#### HACFM Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

### **Capital Indebtedness**

HUD regulations do not permit the HACFM to deduct from gross income the amortization of capital indebtedness.

#### HACFM Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the HACFM will allow as a business expense interest, but not principal, paid on capital indebtedness.

### **Negative Business Income**

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

### **Withdrawal of Cash or Assets from a Business**

HUD regulations require the HACFM to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

#### HACFM Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, the HACFM will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

### **Co-owned Businesses**

#### HACFM Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

## **6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]**

### **Overview**

There is no asset limitation for participation in the HCV program. However, HUD requires that the HACFM include in annual income the “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the HACFM must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-4 provides the regulatory definition of net family assets as well as a chart from the HCV Guidebook that summarizes asset inclusions and exclusions. This section begins with a discussion of general policies related to assets and then provides HUD rules and HACFM policies related to each type of asset.

### **General Policies**

#### **Income from Assets**

##### **HACFM Policy**

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the HACFM to show why the asset income determination does not represent the family’s anticipated asset income.

#### **Valuing Assets**

The calculation of asset income sometimes requires HACFM to make a distinction between an asset’s market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash. Examples of acceptable costs include penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

#### **Lump-Sum Receipts**

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

**Imputing Income from Assets [24 CFR 5.609(b)(3)]**

When net family assets are \$5,000 or less, HACFM will accept a family's declaration of the amount of assets of less than \$5000, and the amount of income expected to be received from those assets. HACFM's application and reexamination documentation, which shall be signed by all adult family members, can serve as the declaration. HACFM will not request supporting documents from the family to confirm the assets of the amount of income expected to be received from those assets.

When the family has net family assets in excess of \$5,000, the HACFM will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

**Determining Actual Anticipated Income from Assets**

It may or may not be necessary for the HACFM to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

**Withdrawal of Cash or Liquidation of Investments**

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

## **Jointly Owned Assets**

### HACFM Policy [(24 CFR.5.609(a)(4)]

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the HACFM will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the HACFM will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the HACFM will prorate the asset evenly among all owners.

## **Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]**

### **Minimum Threshold**

#### HACFM Policy

The HACFM will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertification's, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

## Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

### HACFM Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

## Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

## Family Declaration

### HACFM Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The HACFM may verify the value of the assets disposed of if other information available to the HACFM does not appear to agree with the information reported by the family.

## **Types of Assets**

### **Checking and Savings Accounts**

#### HACFM Policy

In determining the value of a checking account, the HACFM will accept a family's declaration of the amount of assets of less than \$5000, and the amount of income expected to be received from those assets. HACFM's application and reexamination documentation, which shall be signed by all adult family members can serve as the declaration. HACFM will not request supporting documents from the family to confirm the assets of the amount of income expected to be received those assets.

In determining the anticipated income from an interest-bearing checking or savings account, the HACFM will multiply the value of the account by the current rate of interest paid on the account if the asset is over \$5000.

### **Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds**

#### HACFM Policy

In determining the market value of an investment account, the HACFM will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the HACFM will calculate asset income based on the earnings for the most recent reporting period.



## **Equity in Real Property or Other Capital Investments**

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

### HACFM Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the HACFM determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

## **Trusts**

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

### **Revocable Trusts**

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

### **Nonrevocable Trusts**

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

## **Retirement Accounts**

### **Company Retirement/Pension Accounts**

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the HACFM must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

### **IRA, Keogh, and Similar Retirement Savings Accounts**

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

## **Personal Property**

### HACFM Policy

In determining the value of personal property held as an investment, the HACFM will use the family's estimate of the value. However, HACFM also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Personal property is defined as but not limited to gems, jewelry, coin collections, antique cars, etc., is considered an asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

### HACFM Policy [24 CFR 5.603(b)]

Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

## **Life Insurance**

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

## **6-I.H. PERIODIC PAYMENTS**

### **Periodic Payments Included in Annual Income**

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [CFR 5.609(b)(4)]**

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. When a delayed start payment is received and reported during the period in which HACFM is processing an annual reexamination, HACFM will adjust the family share and the HACFM subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a Repayment Agreement with HACFM.

- **Periodic Payments Excluded from Annual Income**

[24 CFR 5.609(c)(2)]; [HCV GB, p. 5-18].

- 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 will be excluded if the care is provided through an official arrangement with a local welfare agency.
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

### **6-I.I. PAYMENTS IN LIEU OF EARNINGS**

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

## **6-I.J. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

HACFM must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

### **Covered Families**

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

### **Imputed Income**

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, HACFM must include in annual income “imputed” welfare income. HACFM must request that the welfare agency inform the agency when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

### **Offsets**

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

## **6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]**

### **Alimony and Child Support**

#### HACFM Policy

HACFM will count court-awarded amounts for alimony and child support unless the HACFM verifies that (1) the payments have not been made for at least 60 days and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

HACFM will count as income any child support which is paid from the non-custodial parent directly and indirectly to the participant (with no court involvement). Services, and items rendered on behalf of the child paid by the non-custodial parent will also be considered as income.

HACFM will also require all participants who are not in receipt of child support (with or without court involvement) must apply for and seek court awarded child support.

### **Regular Contributions or Gifts [24 CFR 5.609(b)(7)]; [24 CFR 5.609(c)(9)].**

#### HACFM Policy

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by HACFM. For contributions that may vary from month to month (e.g., utility payments), the HACFM will include an average amount based upon past history.



## **6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME 24 CFR 5.609(c)**

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  - (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
  - (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

- (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spinal bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)
- (r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

## **PART II: ADJUSTED INCOME**

### **Anticipating Expenses 24 CFR 5.611.**

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [HACFM] must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
  - (i) Unreimbursed medical expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

### HACFM Policy

HACFM will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), HACFM will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, HACFM will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. HACFM may require the family to provide documentation of payments made in the preceding year to determine anticipated expense.

### **6-II.B. DEPENDENT DEDUCTION**

A deduction of \$480 is taken for each dependent [24 CFR 5.611(a)(1)]. Dependent is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

### **6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An elderly family is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a disabled family is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

## **6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]**

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

### HACFM Policy 24 CFR 5.603(b)

The most current IRS Publication 502, Medical and Dental Expenses, will be used to determine the costs that qualify as medical expenses.

<b>Summary of Allowable Medical Expenses from IRS Publication 502</b>	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, non-cosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor	Cost and continuing care of necessary service animals
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Medical insurance premiums or the cost of a health maintenance organization (HMO)
<b>Note:</b> This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

## **Families That Qualify for Both Medical and Disability Assistance Expenses**

### HACFM Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACFM will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## **6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]**

### **Earned Income Limit on the Disability Assistance Expense Deduction**

HACFM Policy [24 CFR 5.611(a)(3)(ii)]; [24 CFR 5.603(b)].

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the HACFM will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the HACFM determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

### **Eligible Disability Expenses**

HACFM Policy

Examples of auxiliary apparatus are provided in the HCV Guidebook as follows: "Auxiliary apparatus are items such as wheel chairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

### **Eligible Attendant Care**

HACFM Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, HACFM will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

## **Payments to Family Members**

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

## **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

### HACFM Policy

HACFM determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, HACFM will collect information from organizations that provide services and support to persons with disabilities. A family may present, and HACFM will consider, the family's justification for costs that exceed typical costs in the area.

## **Families That Qualify for Both Medical and Disability Assistance Expenses**

### HACFM Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, HACFM will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## **6-II.F. CHILD CARE EXPENSE DEDUCTION**

HUD defines child care expenses at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only 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.”

### **Clarifying the Meaning of Child for This Deduction**

#### HACFM Policy

For the purposes of child care expenses, HACFM defines child to include any foster children under the age of 13 living in an assisted family's household [HCV GB, p. 5-29].

## **Qualifying for the Deduction**

### **Determining Who Is Enabled to Pursue an Eligible Activity**

#### HACFM Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term eligible activity in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, HACFM will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

### **Seeking Work**

#### HACFM Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the HACFM.

### **Furthering Education**

#### HACFM Policy

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

### **Being Gainfully Employed**

#### HACFM Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

## **Earned Income Limit on Child Care Expense Deduction**

### **HACFM Policy**

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the HACFM generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work. When child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)]. [HCV GB, p. 5-30].

## **Eligible Child Care Expenses**

### **Allowable Child Care Activities**

#### **HACFM Policy**

For school age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g. summer day camp, after school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible. Payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration. HACFM will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. If the care provided also cares for a child with disabilities who is 13 or older, the cost of care will be prorated.

Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spend in each activity and or the number of persons under care.

## **Necessary and Reasonable Costs**

### **HACFM Policy**

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

HACMF will use the schedule of child care costs from the local welfare agency. Families may present, and the HACFM will consider, justification for costs that exceed typical costs in the area using 3rd party verification.



## **PART III: CALCULATING FAMILY SHARE AND HACFM SUBSIDY**

### **6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS**

#### **TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the HACFM

The HACFM has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

#### **Welfare Rent [24 CFR 5.628]**

##### HACFM Policy

Welfare rent [**does not**] apply in this locality.

#### **Minimum Rent [24 CFR 5.630]**

##### HACFM Policy

The minimum rent for this locality **is \$50**.

#### **Family Share [24 CFR 982.305(a)(5)]**

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the HACFM's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the HACFM may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

**HACFM Subsidy [24 CFR 982.505(b)]**

The HACFM will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

**Utility Reimbursement [24 CFR 982.514(b)]**

When HACFM's subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits HACFM to pay the reimbursement to the family or directly to the utility provider.

HACFM Policy

The HACFM will make utility reimbursements to the family.

## **6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

### HACFM Policy

The financial hardship rules described below does apply in this jurisdiction because the HACFM has established a minimum rent **of \$50**.

### **Overview**

HACFM has establishes a minimum rent of \$50, HACFM will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the HACFM determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

### **HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

### HACFM Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

### HACFM Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

- (4) A death has occurred in the family.

HACFM Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

- (5) The family has experienced other circumstances determined by the HACFM.

HACFM Policy

HACFM has not established any additional hardship criteria.

## Implementation of Hardship Exemption

### Determination of Hardship

When a family requests a financial hardship exemption, HACFM will suspend the minimum rent requirement beginning the first of the month following the family's request.

HACFM then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b>	
Assume the HACFM has established a minimum rent of \$35.	
<b>Family Share – No Hardship</b>	<b>Family Share – With Hardship</b>
\$0 30% of monthly adjusted income	\$0 30% of monthly adjusted income
\$15 10% of monthly gross income	\$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
\$35 Minimum rent	\$35 Minimum rent
Minimum rent applies. TTP = \$35	Hardship exemption granted. TTP = \$15

### HACFM Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

HACFM will make the determination of hardship within 30 calendar days.

### ***No Financial Hardship***

#### **HACFM Policy**

The HACFM will require the family to repay the suspended amount within 30 calendar days of HACFM's notice that a hardship exemption has not been granted.

### ***Temporary Hardship***

#### **HACFM Policy**

If the HACFM determines that a qualifying financial hardship is temporary, HACFM will suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay HACFM the amounts suspended. HUD requires HACFM to offer a reasonable repayment agreement, on terms and conditions established by HACFM. HACFM also may determine that circumstances have changed and the hardship is now a long-term hardship.

### ***Long-Term Hardship***

If HACFM determines that the financial hardship is long-term, HACFM must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

#### **HACFM Policy**

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

## 6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505]

### Overview

HACFM's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the HACFM's payment standards. The establishment and revision of the HACFM's payment standard schedule are covered in Chapter 15.

*Payment standard* is defined as “the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)” [24 CFR 982.4(b)].

The payment standard for a family is the **lower** of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the HACFM's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the HACFM has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the HACFM must use the appropriate payment standard for the exception area.

The HACFM is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the HACFM will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

### Changes in Payment Standards

When the HACFM revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

#### *Decreases*

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. The HACFM will determine the payment standard for the family as follows:

**Step 1:** At the first regular reexamination following the decrease in the payment standard, the HACFM will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

**Step 2:** The HACFM will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the HACFM at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The HACFM will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.



**Step 3:** At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the HACFM has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

### ***Increases***

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

### ***Changes in Family Unit Size***

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

### ***Reasonable Accommodation***

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, HACFM will establish a higher payment standard for the family within the basic range.

## **6-III.D. UTILITY ALLOWANCES [24 CFR 982.517]**

### **Overview**

HACFM-established utility allowance schedule is used in determining family share and HACFM subsidy.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. HACFM will maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection. Costs for telephone, cable/satellite TV, and Internet services are not included in the utility allowance schedule.

The cost of each utility and housing service is stated separately by unit size and type.

### **HACFM Policy**

HACFM uses the utility allowance of the lower utility allowance amount for the family unit size of the utility allowance amount for the actual unit size rented by the family.

### **Air-Conditioning**

### **HACFM Policy**

HACFM has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the HACFM will apply this allowance to a family's rent and subsidy calculations.

## **Reasonable Accommodation**

### **HACFM Policy**

The family must request the higher allowance and provide HACFM with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8]. HACFM will approve a utility allowance amount higher than shown on the HACFM's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability.

### **Utility Allowance Revisions**

HACFM will review its schedule of utility allowances each year, and will revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

Revised utility allowances will be applied to a family's rent and subsidy calculations at the next annual reexamination that is effective after the allowance is adopted [HCV GB, p. 18-9].

### **6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. HACFM must prorate the assistance provided to a mixed family. HACFM will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the HACFM subsidy for a family is calculated at \$500 and two of four family members are ineligible, the HACFM subsidy would be reduced to \$250.

## EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

### 24 CFR 5.609

*(a) Annual income means all amounts, monetary or not, which:*

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

*(b) Annual income includes, but is not limited to:*

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31<sup>1</sup>; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

## HHS DEFINITION OF "ASSISTANCE"

### 45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

#### 260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Non-recurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

<sup>1</sup> Text of 45 CFR 260.31 follows.

- (2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
- (3) Supportive services such as child care and transportation provided to families who are employed;
- (4) Refundable earned income tax credits;
- (5) Contributions to, and distributions from, Individual Development Accounts;

- (6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
- (7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

## EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

### 24 CFR 5.609

*(c) Annual income does not include the following:*

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) The full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;  
(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
- (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the HACFM or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the HACFM's governing board. No resident may receive more than one such stipend during the same period of time;
- (v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
- (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- (11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);



(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to HACFMs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
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a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

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

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

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

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

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

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

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

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

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spinal bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

### EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

#### 24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, HACFMs 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.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

## EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

### 24 CFR 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

*(a) Applicable programs.* The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

*(b) Definitions.* The following definitions apply for purposes of this section.

*Disallowance.* Exclusion from annual income.

*Previously unemployed* includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

*Qualified family.* A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

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

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

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least \$500.

*(c) Disallowance of increase in annual income—*

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

*(d) Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

## EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

### 24 CFR 5.615

#### **Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

*(a) Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

*(b) Definitions.* The following definitions apply for purposes of this section:

*Covered families.* Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

*Economic self-sufficiency program.* See definition at Sec. 5.603.

*Imputed welfare income.* The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

*Specified welfare benefit reduction.*

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

*(c) Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the HACFM by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the HACFM, the welfare agency will inform the HACFM in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the HACFM of any subsequent changes in the term or amount of such specified welfare benefit reduction. The HACFM will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the HACFM's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the HACFM by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The HACFM may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

*(d) Review of HACFM decision.*

(1) Public housing. If a public housing tenant claims that the HACFM has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the HACFM denies the family's request to modify such amount, the HACFM shall give the tenant written notice of such denial, with a brief explanation of the basis for the HACFM determination of the amount of imputed welfare income. The HACFM notice shall also state that if the tenant does not agree with the HACFM determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the HACFM determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the HACFM determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the HACFM determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the HACFM denies the family's request to modify such amount, the HACFM shall give the family written notice of such denial, with a brief explanation of the

basis for the HACFM determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the HACFM determination, the family may request an informal hearing on the determination under the HACFM hearing procedure.

*(e) HACFM relation with welfare agency.*

(1) The HACFM must ask welfare agencies to inform the HACFM of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the HACFM written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The HACFM is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the HACFM. However, the HACFM is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The HACFM shall be entitled to rely on the welfare agency notice to the HACFM of the welfare agency's determination of a specified welfare benefits reduction.





## **Chapter 7**

### **VERIFICATION PROCEDURES**

[24 CFR Part 5, Subparts B, D, E and F; 24 CFR 982.158; 24 CFR 5.617]

#### **INTRODUCTION**

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

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

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

HACFM will verify information through the four methods of verification acceptable to HUD in the following order:

1. Enterprise Income Verification (EIV)
2. Third-Party Written
3. Third-Party Oral
4. Review of Documentations
4. Certification/Self-Declaration

HACFM will allow **two weeks** for return of third-party verifications and **two weeks** to obtain other types of verifications before going to the next method. HACFM will document the file as to why third party written verification was not used.

For applicants, verifications may not be more than 60 days old at the time of Voucher issuance. **For participants, they are valid for 120 days from date of receipt.**

### **Third-Party Written Verification**

Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail. The family will be required to sign an authorization for the information source to release the specified information.

Verifications received electronically directly from the source **are** considered third party written verifications.

**Third party verification forms will not be hand carried by the family under any circumstances.**

HACFM will send requests for third party written verifications to the source at all times regardless of whether the family provides a computerized printout.

### **Third-Party Oral Verification**

Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete a Certification of Document Viewed or Person Contacted form, noting with whom they spoke, the date of the conversation, and the facts provided. If oral third party verification is not available, HACFM will compare the information to any documents provided by the Family. If provided by telephone, HACFM must originate the call.

## **Review of Documents**

In the event that third-party written or oral verification is unavailable, or the information has not been verified by the third party within **four** weeks, HACFM will annotate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a Certification of Document Viewed or Person Contacted form or document.

HACFM will accept the following documents from the family provided that the document is such that tampering would be easily noted:

- Printed wage stubs
- Computer print-outs from the employer
- Signed letters (provided that the information is confirmed by phone)
- Other documents noted in this Chapter as acceptable verification

HACFM will accept faxed documents.

HACFM will accept photo copies.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, HACFM will utilize the third party verification.

HACFM will not delay the processing of an application beyond 60 days because a third party information provider does not return the verification in a timely manner.

## **Self-Certification/Self-Declaration**

When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification.

Self-certification means **a notarized statement/affidavit/certification/statement under penalty of perjury and must be witnessed**

**B. RELEASE OF INFORMATION** [24 CFR 5.230]

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

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

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

### **C. COMPUTER MATCHING**

For some time, HUD has conducted a computer matching initiative to independently verify resident income. HUD can access income information and compare it to information submitted by PHAs on the 50058 form. HUD can disclose Social Security information to PHAs, but is precluded by law from disclosing Federal tax return data to PHAs. If HUD receives information from Federal tax return data indicating a discrepancy in the income reported by the family, HUD will notify the family of the discrepancy. The family is required to disclose this information to HACFM (24 CFR 5.240). HUD's letter to the family will also notify the family that HUD has notified HACFM in writing that the family has been advised to contact HACFM. HUD will send HACFM a list of families who have received "income discrepancy" letters.

When HACFM receives notification from HUD that a family has been sent an "income discrepancy" letter, HACFM will:

- Wait 40 days after the date of notification before contacting tenant.
- After 40 days following the date of notification, HACFM will contact the tenant by **mail** asking the family to promptly furnish any letter or other notice by HUD concerning the amount or verification of family income **within 10 days**.
- HACFM will fully document the contact in the tenant's file, including **a copy of the letter to the family**.

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

**HACFM will allow the family to enter into a repayment agreement as follows:**

**An initial deposit of 50% of amount owed and balance of debt owed must be paid by their next annual examination.**

**If the family fails to make two consecutive monthly payments their assistance shall be terminated with a thirty day advance notice and an opportunity for an informal hearing.**

If tenant fails to respond to HACFM:

HACFM will ask HUD to send a second letter.

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

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

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

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

After 40 days, HACFM will contact the tenant family.

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

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

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

If tenant does receive a discrepancy letter from HUD:

HACFM will set up a meeting with the family.

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

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

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

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

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

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



**D. ITEMS TO BE VERIFIED** [24 CFR 982.516]

All income not specifically excluded by the regulations.

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

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

Child care expense where 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.

Disability for determination of preferences, allowances and or deductions.

U.S. citizenship/eligible immigrant status

Social security numbers for all family members who have been issued a social security number.

"Preference" status

**Familial/Marital** status when needed for head or spouse definition.

Verification of Reduction in Benefits for Noncompliance:

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

## **E. VERIFICATION OF INCOME** [24 CFR 982.516]

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

### **Employment Income**

Verification forms request the employer to specify the:

- Dates of employment
- Amount and frequency of pay
- Date of the last pay increase
- Likelihood of change of employment status and effective date of any known salary increase during the next 12 months
- **Year to date earnings**
- **Estimated income from overtime, tips, bonus pay expected during next 12 months**

Acceptable methods of verification include, in this order:

1. Employment verification form completed by the employer.
2. Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.
3. W-2 forms plus income tax return forms.
4. Income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities

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

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

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

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

Acceptable methods of verification include, in this order:

1. Benefit verification form completed by agency providing the benefits.
2. Award or benefit notification letters prepared and signed by the providing agency.
3. **Computer report electronically obtained or in hard copy.**

### **Unemployment Compensation**

Acceptable methods of verification include, in this order:

1. Verification form completed by the unemployment compensation agency.
2. Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts.
3. **Payment stubs.**

### **Welfare Payments or General Assistance**

Acceptable methods of verification include, in this order:

1. HACFM verification form completed by payment provider.
2. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
3. Computer-generated Notice of Action.
4. Computer-generated list of recipients from Welfare Department.

### **Alimony or Child Support Payments**

Acceptable methods of verification include, in this order:

1. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
2. A notarized letter from the person paying the support.
3. Copy of latest check and/or payment stubs from Court Trustee. PHA must record the date, amount, and number of the check.
4. Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If payments are irregular, the family must provide:

1. A copy of the separation or settlement agreement or a divorce decree stating the amount and type of support and payment schedules.
2. A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.
3. A notarized affidavit from the family indicating the amount(s) received.
4. A welfare notice of action showing amounts received by the welfare agency for child support.
5. A written statement from an attorney certifying that a collection or enforcement action has been filed.

## **Net Income from a Business**

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

Acceptable methods of verification include:

1. IRS Form 1040, including:

Schedule C (Small Business)

Schedule E (Rental Property Income)

Schedule F (Farm Income)

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

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

### **Child Care Business**

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

- If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), HACFM will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.
- If the family has filed a tax return, the family will be required to provide it.
- If child care services were terminated, a third-party verification will be sent to the parent whose child was cared for.

### **Recurring Gifts**

The family must furnish a self-certification which contains the following information:

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

### **Zero Income Status**

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

**HACFM will request information from the State Employment Department.**

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

### **Full-time Student Status**

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

Financial aid, scholarships and grants 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.
- School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

## **F. INCOME FROM ASSETS** [24 CFR 982.516]

### **Savings Account Interest Income and Dividends**

Acceptable methods of verification include, in this order:

1. Family's declaration of the amount of assets of less than \$5000.
2. Account statements, passbooks, certificates of deposit, or PHA verification forms completed by the financial institution if balance exceeds \$5000.
3. 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.
4. IRS Form 1099 from the financial institution, provided that HACFM must adjust the information to project earnings expected for the next 12 months.

### **Interest Income from Mortgages or Similar Arrangements**

Acceptable methods of verification include, in this order:

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

### **Net Rental Income from Property Owned by Family**

Acceptable methods of verification include, in this order:

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



## **G. VERIFICATION OF ASSETS**

### **Family Assets**

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

Acceptable verification may include any of the following:

- Verification forms, letters, or documents from a financial institution or broker.
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate.
- Real estate tax statements if the approximate current market value can be deduced from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.
- Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.
- Signed declaration by all adult household members of assets less than \$5000.

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

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

**H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**  
CFR 982.516]

[24

**Child Care Expenses**

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

Verifications must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

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

**Medical Expenses**

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

Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.

Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.

Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

For attendant care:

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

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

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

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

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

HACFM 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.

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

**In All Cases:**

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

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

**Attendant Care:**

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

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

**Auxiliary Apparatus:**

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

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

## **I. VERIFYING NON-FINANCIAL FACTORS** [24 CFR 5.617(b)(2)]

### **Verification of Legal Identity**

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

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

- Certificate of Birth, naturalization papers
- Church issued baptismal certificate
- Current, valid Driver's license
- U.S. military discharge (DD 214)
- U.S. passport
- Voter's registration
- Company/agency Identification Card
- Department of Motor Vehicles Identification Card
- Hospital records

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

- Certificate of Birth
- Adoption papers
- Custody agreement
- Health and Human Services ID
- School records

### **Verification of Marital Status**

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

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

Verification of marriage status is a marriage certificate.

## **Familial Relationships**

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

The following verifications will always be required if applicable:

- Verification of relationship:
- Official identification showing names
- Birth Certificates
- Baptismal certificates
- Verification of guardianship is:
- Court-ordered assignment
- Affidavit of parent
- Verification from social services agency
- School records

### **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, HACFM will consider any of the following as verification:

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

### **Verification of Change in Family Composition**

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

### **Verification of Disability**

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



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

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

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

HACFM 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 HACFM

Eligible Immigrants who were Participants and 62 or over on June 19, 1995, are required to sign a declaration of eligible immigration status and provide proof of age.

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

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

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

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

### **Time of Verification**

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

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

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

For family members added after other members have been verified, the verification occurs at the 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 PHA does not supply the documents, HACFM must conduct the determination.

### Extensions of Time to Provide Documents

HACFM **will** grant an extension of **10** 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.

**HACFM will verify the eligibility of a family member at any time such eligibility is in question, without regard to the position of the family on the waiting list.**

If HACFM 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 **60** months, unless the ineligible individual has already been considered in prorating the family's assistance.

## **Verification of Social Security Numbers** [24 CFR 5.216]

Social security numbers must be provided as a condition of eligibility for all family members age six and over if they have been issued a number. Verification of social security numbers will be done through a social security card issued by the Social Security Administration. If a family member cannot produce a social security card, only the documents listed below showing his or her social security number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the social security card information provided is/are complete and accurate:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- An identification card issued by a medical insurance company
- Earnings statements or payroll stubs
- Bank Statements
- IRS Form 1099
- Benefit award letters from government agencies
- Retirement benefit letter
- Life insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Verification of benefits or social security number from Social Security Administration

All family members will be required to produce their social security card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to HACFM.

If an applicant or participant is able to disclose the social security number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by HACFM. The applicant/participant or family member will have an additional **10** days to provide proof of the social security number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, HACFM may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

### **Medical Need for Larger Unit**

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional.

## **J. VERIFICATION OF WAITING LIST PREFERENCES** [24 CFR 982.207]

### **Local Preferences:**

- **Date and Time:** All applications will be stamped electronically with the date and time of application. It must also include the signature of the HACFM representative accepting this application.
- **Families from Federal-Declared disaster areas:** A federal disaster (such as a fire, flood, earthquake, hurricane, etc) that has caused the unit or area uninhabitable will be given a preference on the wait list. Verifications accepted to verify this preference will include letters from the Federal Emergency Management Agency (FEMA) which identifies the family name and includes the disaster number designated. Documentations from the Red Cross verifying the affected family will also be considered as verification.
- **Veterans and Servicemen:** Military papers (DD Form 214) must be presented at the time of the initial interview to determine if the applicant family is a member, veteran, or immediate family member or spouse of military personnel.
- **Violence Against Women Act (VAWA)** If you have been a victim of domestic violence, dating violence, sexual assault or stalking, you or a family member on your behalf must complete and submit a certification form **HUD-91066** describing the incident to certify that the individual is a victim of such violence. You may also be requested to submit documentation from a federal, state, or local police or court record; or documentation signed by an employee, agent or volunteer of a victim service provider, an attorney or medical professional from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault or stalking.



## Chapter 8

### VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

#### **INTRODUCTION**

The PHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the PHA 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, PHA procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

#### **A. ISSUANCE OF VOUCHERS** [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, HACFM will issue vouchers to applicants whose eligibility has been determined. The number of vouchers issued must ensure that HACFM stays as close as possible to 100 percent lease-up. HACFM performs a monthly calculation **electronically** to determine whether applications can be processed, the number of vouchers that can be issued, and to what extent HACFM can over-issue (issue more vouchers than the budget allows to achieve lease-up).

HACFM may over-issue vouchers only to the extent necessary to meet leasing goals. All vouchers which are over-issued must be honored. If HACFM finds it is over-leased, it must adjust future issuance of vouchers in order not to exceed the ACC budget limitations over the fiscal year.



## **B. BRIEFING TYPES AND REQUIRED ATTENDANCE** [24 CFR 982.301]

### **Initial Applicant Briefing**

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in **group meetings**. Families who attend group briefings and still have the need for individual assistance will be referred to **Intake Specialist**.

Briefings will be conducted in English. **Briefings will also be conducted in Spanish on an as needed basis.**

The purpose of the briefing is to explain how the program works and the documents in the voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

HACFM will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend **2** scheduled briefings, without prior notification and approval of HACFM, may be denied admission based on failure to supply information needed for certification. HACFM will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

**Briefing Packet** [24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements. HACFM also includes other information and/or materials which are not required by HUD.

The family is provided with the following information and materials

- The term of the voucher, and HACFM policy for requesting extensions or suspensions of the voucher (referred to as tolling).
- A description of the method used to calculate the housing assistance payment for a family, including how HACFM determines the payment standard for a family; how the PHA determines total tenant payment for a family and information on the payment standard and utility allowance schedule. How HACFM determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of HACFM's policy on providing information about families to prospective owners.
- HACFM Subsidy Standards including when and how exceptions are made and how the voucher size relates to the unit size selected.
- The HUD brochure on how to select a unit and the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS]
- The HUD pamphlet on lead-based paint entitled *Protect Your Family From Lead in Your Home*[and information about where blood level testing is available.

- Information on Federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form. HACFM will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines and the phone numbers of the local fair housing agency and the HUD enforcement office.
- The address for GoSection8.com for a list of landlords or other parties willing to lease to assisted families or help in the search and/or known units available for the voucher issued. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.
- If the family includes a person with disabilities, notice that HACFM will provide a list of available accessible units known to HACFM.
- The family obligations under the program.
- The grounds on which HACFM may terminate assistance for a participant family because of family action or failure to act.
- HACFM's informal hearing procedures including when HACFM is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- Information packet including an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability. (required for PHAs in MSAs)
- A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families. (required for PHAs in MSAs)
- Information regarding HACFM's outreach program which assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations.
- A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration (required for PHAs in MSAs).

- Procedures for notifying HACFM and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
- The family's rights as a tenant and a program participant.
- Requirements for reporting changes between annual re-certifications.
- Information on security deposits and legal referral services.
- Exercising choice in residency
- Choosing a unit carefully and only after due consideration.
- The Family Self Sufficiency program and its advantages.

If the family includes a person with disabilities, HACFM will ensure compliance with CFR 8.6 to ensure effective communication.

### **Move Briefing**

**A move briefing will be held for participants who will be reissued a voucher to move, and who have been recertified within the last 120 days, and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families.**

### **Owner Briefing**

New owners are brief on a one-on-one basis as needed. All new owners receive a personal invitation and current owners are notified by mail. Prospective owners are also welcome. The purpose of the briefing is to assure successful owner participation in the program. The briefing covers the responsibilities and roles of the three parties.

### **Signature Briefing**

All new owners will be required to attend a signature briefing with the family head at the office to execute contracts and leases. Other owners will be encouraged to attend signature briefings to reduce future conflict between the owner and tenant. The PHA will provide details on the program rules and relationships and responsibilities of all parties.

HACFM provides group briefings for new owners and any other owners who wish to attend at least 1 per year and more frequently on a one-on-one basis, as needed.

### **C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION**

At the briefing, families are encouraged to search for housing in non-impacted areas.

HACFM has maps that show various areas and information about facilities and services in neighboring areas such as schools, transportation, and supportive and social services.

HACFM will investigate and analyze when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

The assistance provided to such families includes:

- Direct contact with landlords.
- Counseling with the family.
- Providing information about services in various non-impacted areas.
- Meeting with neighborhood groups to promote understanding.
- Formal or informal discussions with landlord groups
- Formal or informal discussions with social service agencies
- Meeting with rental referral companies or agencies
- Meeting with fair housing groups or agencies

#### **D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION**

The PHA will give participants a copy of HUD Form 903 to file a complaint.

#### **E. SECURITY DEPOSIT REQUIREMENTS** [24 CFR 982.313]

##### **Leases Effective Prior to October 2, 1995**

The amount of Security Deposit which could have been collected by owners under contracts effective prior to October 2, 1995 is:

Under the pre-merger Certificate Program, the owner could have collected a Security Deposit in an amount not to exceed Total Tenant Payment or \$50.00, whichever is greater, for non-lease-in-place families.

For the pre-merger voucher program, the owner, at his/her discretion could have collected a Security Deposit in an amount not to exceed PHA policy:

**The amount charged to unassisted tenants up to a maximum of one month rent.**

##### **Leases Effective on or after October 2, 1995**

The owner is not required to but may collect a security deposit from the tenant.

Security deposits charged to families may be any amount the owner wishes to charge, **subject to the following conditions:**

- **Security deposits charged by owners may not exceed those charged to unassisted tenants (nor the maximum prescribed by State or local law.**

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

**F. TERM OF VOUCHER** [24 CFR 982.303, 982.54(d)(11)]

During the briefing session, each household will be issued a voucher which represents a contractual agreement between the PHA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

**Expirations**

The voucher is valid for a period of at least 60 calendar days from the date of issuance. The family must submit a Request for Approval of the Tenancy and Lease within the 60 day period unless an extension has been granted by the HACFM.

If the voucher has expired, and has not been extended by the HACFM or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

**Suspensions**

HACFM must provide for suspension of the initial or any extended term of the voucher from the date that the family submits a request for HACFM approval of the tenancy until the date HACFM notifies the family in writing whether the request has been approved or denied. When a Request for Approval of Tenancy is received, HACFM **will** deduct the number of days required to process the request from the 60 day term of the voucher.



## **Extensions**

HACFM will extend the term up to 120 days from the beginning of the initial term if the family needs and request an extension as a reasonable accommodation to make the program accessible to and usable by a family member with a disability. If the family needs an extension in excess of 120 days, HACFM will extend the voucher term for the amount of time reasonably required for said reasonable accommodation.

A family may request a written request for an extension of the voucher time period. All requests for extensions must be received prior to the expiration date of the voucher.

Extensions are permissible at the discretion of HACFM up to a maximum of an additional 60 days primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial sixty-day period. Verification is required.
- HACFM is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of HACFM, throughout the initial 60 day period. A completed search record is not required.
- The family was prevented from finding a unit due to disability accessibility requirements or large size 3 & 4 bedroom unit requirement. The Search Record is not part of the required verification.
- If the family needs and request an extension of the initial voucher term as a reasonable accommodation, in accordance with part 8 of this title, to make the program accessible to a family member who is a person with disabilities, HACFM must extend the voucher term up to the term reasonably required for that purpose.
- If the vacancy rate for rental housing in the jurisdiction is less than 20%, 2 of extensions will be granted automatically on request up to a total of 120 days.
- HACFM extends in one or more increments. Unless approved by the Section 8 Director or higher, no more than 2 extensions of 30 days or less will be granted and never for a total of more than an additional sixty days.

### **Assistance to Voucher Holders**

Families who require additional assistance during their search may call HACFM to request assistance. Voucher holders will be notified at their briefing session that HACFM recommends the use of GoSection8.com for listing of available units and how the updated list may be obtained.

HACFM will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

After the first 60 days of the search, the family is required to maintain a search record and report to HACFM every 15 days.

**G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS** [24 CFR 982.315]

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Section 8 Supervisor or higher shall consider the following factors to determine which of the families will continue to be assisted:

- Which of the two new family units has custody of dependent children.
- Which family member was the head of household when the voucher was initially issued (listed on the initial application).
- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.
- Which family members remain in the unit.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, HACFM will terminate assistance on the basis of failure to provide information necessary for a recertification.

**H. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER**  
[24 CFR 982.315]

To be considered the remaining member of the tenant family, the person must have been previously approved by HACFM to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

In order for a minor child to continue to receive assistance as a remaining family member:

- The court has to have awarded emancipated minor status to the minor, or
- HACFM has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a reduction in the voucher family unit size.

Reserved

## **Chapter 9**

### **REQUEST FOR APPROVAL OF TENANCY AND CONTRACT EXECUTION**

[24 CFR 982.302]

#### **INTRODUCTION** [24 CFR 982.305(a)]

The HACFM's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The HACFM's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the HACFM, or outside of the HACFM's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the HACFM. This chapter defines the types of eligible housing, the HACFM's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests for Tenancy Approval (RFTA).

**A. REQUEST FOR APPROVAL OF TENANCY** [24 CFR 982.302, 982.305(b)]

The Request for Approval of Tenancy (RFTA) and a copy of the proposed lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the Request for Approval of Tenancy in the form and manner required by the HACFM.

The Request for Approval of Tenancy must be signed by both the owner and voucher holder.

**The HACFM will not permit the family to submit more than one RFTA at a time.**

The HACFM will review the proposed lease and the Request for Approval of Tenancy documents to determine whether or not they are approvable. The request will be approved if:

- The unit is an eligible type of housing
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
- The rent is reasonable
- The security deposit is approvable in accordance with any limitations in this plan.
- The proposed lease complies with HUD and HACFM requirements (See "Lease Review" section below).

The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below). In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family monthly adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

**Disapproval of RFTA**

If the HACFM determines that the request cannot be approved for any reason, the landlord and the family will be notified in writing. The HACFM will instruct the owner and family of the steps that are necessary to approve the request.

The owner will be given **15** calendar days to submit an approvable RFTA from the date of disapproval.

When, for any reason, an RFTA is not approved, the HACFM will furnish another RFTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

**B. ELIGIBLE TYPES OF HOUSING** [24 CFR 982.353]

The HACFM will approve any of the following types of housing in the voucher program:

- All structure types can be utilized.
- Manufactured homes where the tenant leases the mobile home and the pad.
- Manufactured homes where the tenant owns the mobile home and leases the pad for voucher
- Group homes
- Congregate facilities (only the shelter rent is assisted)
- Units owned (but not subsidized) by the HACFM (following HUD-prescribed requirements).

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development.

The HACFM may not permit a voucher holder to lease a unit which is receiving project-based Section 8 assistance or any duplicative rental subsidies.



### **C. LEASE REVIEW** [24 CFR 982.308]

The HACFM will review the lease, particularly noting the approvability of optional charges and compliance with regulations and state and local law. The tenant also must have legal capacity to enter a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the on the Request For Approval of Tenancy.

The family and owner must submit a standard form of lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with state and local law.

The lease must specify:

- The names of the owner and tenant, and
- The address of the unit rented (including apartment number, if any), and
- The amount of the monthly rent to owner, and
- The utilities and appliances to be supplied by the owner, and
- The utilities and appliances to be supplied by the family.

The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant=s control on the premises is grounds to terminate tenancy.

The lease must also provide that owner may evict family when the owner determines that:

- Any household member is illegally using a drug; or
- A pattern of illegal use of drug by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

The lease must provide that the following types of criminal activity by a "covered person" are grounds to terminate tenancy:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or
- Any violent criminal activity on or near the premises by a tenant, household member, or guest; or
- Any violent criminal activity on the premises by any other person under the tenant's control.

The lease must provide that the owner may terminate tenancy if a tenant is:

- Fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees (high misdemeanor in NJ); or
- Violating a condition of probation or parole imposed under Federal or State law.
- House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the HACFM to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

### **Actions Before Lease Term**

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

- The HACFM has inspected the unit and has determined that the unit satisfies the HQS;
- The HACFM has determined that the rent charged by the owner is reasonable;
- The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;
- The HACFM has approved leasing of the unit in accordance with program requirements;
- When the gross rent exceeds the applicable payment standard for the family, the HACFM must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

#### **D. SEPARATE AGREEMENTS**

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the HACFM.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the HACFM. If agreements are entered into at a later date, they must be approved by the HACFM and attached to the lease.

**E. INITIAL INSPECTIONS** [24 CFR 982.305(a) & (b)]

See "Housing Quality Standards and Inspections" chapter of this Administrative Plan.

**F. RENT LIMITATIONS** [24 CFR 982.507]

The HACFM will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

By accepting each monthly housing assistance payment from the HACFM, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the HACFM with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the HACFM.

**G. DISAPPROVAL OF PROPOSED RENT** [24 CFR 982.502]

In any of the programs, if the proposed gross rent is not reasonable, at the family's request, the HACFM will negotiate with the owner to reduce the rent to a reasonable rent. If, in the voucher program, the rent is not affordable because the family share would be more than 40% of the family's monthly adjusted income, the HACFM will negotiate with the owner to reduce the rent to an affordable rent for the family.

- At the family's request, the HACFM will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, the HACFM will continue processing the Request for Approval of Tenancy and lease. If the revised rent involves a change in the provision of utilities, a new Request for Approval of Tenancy must be submitted by the owner.

If the owner does not agree on the rent to owner after the HACFM has tried and failed to negotiate a revised rent, the HACFM will inform the family and owner that the lease is disapproved.

**H. INFORMATION TO OWNERS** [24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the HACFM will furnish prospective owners with the family=s current address as shown in the HACFM's records and, if known to the HACFM, the name and address of the landlord at the family=s current and prior address.

The HACFM will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The HACFM will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

A statement of the HACFM's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

The HACFM will provide documented information regarding tenancy history for the past 2 years to prospective landlords upon written request from the landlord.

The HACFM will furnish prospective owners with information about the family=s rental history, or any history of drug trafficking.

**The HACFM will provide the following information, based on documentation in its possession:**

- Eviction history
- Damage to rental units
- Drug trafficking by family members

The information will be provided for the last 2 years.

The information will be provided **in writing**.

Only the Section 8 Director or higher may provide this information. The HACFM's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

**I. OWNER DISAPPROVAL [24 CFR 982.306]**

See chapter on Owner Disapproval and Restriction.

**J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the total family share prior to the effective date of the HAP contract at admission, the information will be verified and the total family share will be recalculated. If the family does not report any change, the HACFM need not obtain new verifications before signing the HAP contract, even if verifications are more than 60 days old.

#### **K. CONTRACT EXECUTION PROCESS** [24 CFR 982.305(c)]

The HACFM prepares the Housing Assistance Contract and lease for execution. The family and the owner will execute the lease agreement, and the owner and the HACFM will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents. The HACFM will retain a copy of all signed documents.

The HACFM makes every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

The following HACFM representative(s) is/are authorized to execute a contract on behalf of the HACFM: Executive Director and/or Assistant Director.

**Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.**

Owners must provide an employer identification number or social security number

**Owners must also submit proof of ownership of the property, such as a grant deed or tax bill, and a copy of the management agreement if the property is managed by a management agent.**

**The owner must provide a home telephone number and business number if applicable.**

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The HACFM will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

#### **L. CHANGE IN OWNERSHIP**

See "Owner Disapproval and Restriction" chapter.



Reserved

## **Chapter 10**

### **HOUSING QUALITY STANDARDS AND INSPECTIONS**

[24 CFR 982.401]

#### **INTRODUCTION**

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

The HACFM will inspect each unit under contract at least annually. The HACFM will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the HACFM's required standards and to assure consistency in the HACFM's program. This chapter describes the HACFM's procedures for performing HQS and other types of inspections, and HACFM standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and HACFM requirements. (See additions to HQS).

**A. GUIDELINES/TYPES OF INSPECTIONS** [24 CFR 982.401(a), 982.405]

The HACFM has adopted local requirements of acceptability in addition to those mandated by the HUD Regulations.

All units must meet the minimum standards set forth in the County of Lee Building/Housing Code. In cases of inconsistency between the Code and these HQS, the stricter of the two shall prevail.

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The HACFM will not promote any additional acceptability criteria which are likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service prior to the effective date of the HAP contract. If the utilities are not in service at the time of inspection, the inspector will have owner certify that all utilities are in proper working condition.

If the tenant is responsible for supplying the stove and/or the refrigerator, the HACFM will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify that the appliances are in the unit and working.

There are five types of inspections the HACFM will perform:

1. Initial/Move-in: Conducted upon receipt of Request for Approval of Tenancy.
2. Annual: Must be conducted within twelve months of the last annual inspection.
3. Move-Out/Vacate (for pre 10/2/95 contracts where there could be damage claims)
4. Special/Complaint: At request of owner, family or an agency or third-party.
5. Quality Control

**B. INITIAL HQS INSPECTION** [24 CFR 982.401(a), 982.305(b)(2)]

**Timely Initial HQS Inspection**

The HACFM will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 days unless the **HACFM** determines that it is unable to do so in the stated timeframe, in which case the file will be appropriately documented.

**The HACFM will make every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service.**

The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Plan.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the owner will be advised to notify the HACFM once repairs are completed.

On an initial inspection, the owner will be given up to 15 days to correct the items noted as Fail, at the inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed up to 2 re-inspections for repair work to be completed.

If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

### **C. ANNUAL HQS INSPECTIONS** [24 CFR 982.405(a)]

The HACFM conducts an inspection in accordance with Housing Quality Standards at least annually, 10 days prior to the last annual inspection, so that the inspections are conducted at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the tenant is responsible.

The family must allow the HACFM to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551(d)]

- Inspections will be conducted on business days only.
- Reasonable hours to conduct an inspection are between 8:00 am and 4:30 p.m.
- The HACFM will notify the family in writing or by phone at least 15 days prior to the inspection.

Inspection: The family is notified of the date and time of the inspection appointment by mail or phone. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 5 days.

If the family does not contact the HACFM to reschedule the inspection, or if the family misses 2 inspection appointments, the HACFM will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan. The family will be allowed to miss 1 appointment without violating a family obligation.

Re-inspection: The family and owner are provided a notice of the inspection appointment by mail. If the family is not at home for the re-inspection appointment, a card will be left at the unit and another appointment is automatically scheduled. The appointment letter contains a warning of abatement (in the case of owner responsibility), and a notice of the owner's responsibility to notify the family.

The family is also notified that it is a Family Obligation to allow the HACFM to inspect the unit. If the family was responsible for a breach of HQS identified in the "Denial or Termination of Assistance" chapter of this Administrative Plan, they will be advised of their responsibility to correct.

### **Time Standards for Repairs**

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. (See Emergency Repair Items section.)

For non-emergency items, repairs must be made within 30 days.

For major repairs, the **Section 8 Director** may approve an extension beyond 30 days.

### **Rent Increases**

Rent to owner increases may not be approved if the unit is in a failed condition.

**D. MOVE OUT/VACATE**

**A move out inspection will be performed only at the landlords request.**

**E. SPECIAL/COMPLAINT INSPECTIONS** [24 CFR 982.405(c)]

If at any time the family or owner notifies the HACFM that the unit does not meet Housing Quality Standards, the HACFM will conduct an inspection.

**The HACFM may also conduct a special inspection based on information from third parties such as neighbors or public officials.**

The HACFM 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 date is within 120 days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual procedures will be followed.**

**F. QUALITY CONTROL INSPECTIONS** [24 CFR 982.405(b)]

Quality Control inspections will be performed by the **Section 8 Director** or designee on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.



**G. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS** [24 CFR 982.401 (a)]

The HACFM adheres to the acceptability criteria in the program regulations **and local codes**].

Local Codes [24 CFR 982.401(a)(4)]

The City of Fort Myers HACFM has adopted in its policy to comply with Fort Myers and or Lee County building codes.

Additions

Walls:

- In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced.
- Any exterior or interior surfaces with peeling or chipping paint must be scraped and painted with two coats of unleaded paint or other suitable material.

Windows:

- All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced.
- Windows must be weather-stripped as needed to ensure a watertight seal.
- Window screens must be in good condition
- Any room for sleeping must have a window.

Doors:

- All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.
- All interior doors must have no holes, have all trim intact, and be able to open without the use of a key.
- All sleeping rooms must lock from the inside.

#### Floors:

- All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.
- All floors must be in a finished state (no plywood).
- All floors should have some type of base, trim, or sealing for a "finished look." Vinyl base may be used for kitchens and bathrooms.

#### Sinks:

- All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.
- All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.
- All sinks and tubs must have functioning stoppers.

#### Security:

- If window security bars or security screens are present on emergency exit window, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.
- Owners are responsible for providing and replacing old batteries for battery powered units. Tenants will be instructed not to tamper with smoke detectors or remove batteries.

#### Bedrooms:

- Bedrooms in basements or attics are not allowed unless they meet local code requirements and must have adequate ventilation and emergency exit capability.
- Minimum bedroom ceiling height is 7'6" or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

## Modifications

- Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.

Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. HACFM will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

#### **H. EMERGENCY REPAIR ITEMS** [24 CFR 982.404(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector:

- **Lack of security for the unit**
- **Waterlogged ceiling in imminent danger of falling**
- **Major plumbing leaks or flooding**
- **Natural gas leak or fumes**
- **Electrical problem which could result in shock or fire**
- **Utilities not in service**
- **No heat when the outside temperature is below 60 degrees Fahrenheit and the temperature inside the unit is below 60 degrees Fahrenheit**
- **No running hot water**
- **Broken glass where someone could be injured**
- **Obstacle which prevents tenant's entrance or exit**
- **Lack of functioning toilet**

The HACFM may give a short extension (not more than 48 additional hours) whenever the responsible party cannot be notified or it is impossible to make the repair within the twenty four (24) hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the HACFM.

If the emergency repair item(s) are not corrected in the time period required by the HACFM, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the HACFM, and it is an HQS breach which is a family obligation, the HACFM will terminate the assistance to the family.

**I. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)**  
[24 CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the HACFM, the assistance payment to the owner will be **abated**.

**Abatement**

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for **30** days, depending on the nature of the repair(s) needed.

The HACFM will inspect abated units within **5** days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

**The HACFM will advise owners of their responsibility to notify the tenant of when the re-inspection will take place.**

**The family will be notified of the re-inspection date and requested to inform the owner.**

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the HACFM's portion of rent that is abated.

The HACFM will grant an extension in lieu of abatement in the following cases:

- The owner has a good history of HQS compliance.
- The failed items are minor in nature.
- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- The repairs must be delayed due to climate conditions.

**The extension will be made for a period of time not to exceed 30 days. At the end of that time, at the HACFM's discretion, if the work is not completed the HACFM will begin the /termination of assistance.**

### **Termination of Contract**

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination **may** be rescinded by the HACFM if the tenant chooses to remain in the unit. **Only one** Housing Quality Standards inspections will be conducted after the termination notice is issued.

**J. DETERMINATION OF RESPONSIBILITY** [24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

Tenant-paid utilities not in service

Failure to provide or maintain family-supplied appliances

Damage to the unit or premises caused by a household member or guest beyond normal wear and tear

- **"Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.**

The owner is responsible for all other HQS violations.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The HACFM may terminate the family's assistance on that basis.

**The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination to a mediator within 5 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 and the family's file will be noted.**



**K. CONSEQUENCES IF FAMILY IS RESPONSIBLE** [24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the HACFM will require the family make any repair(s) or corrections within **15** of days. If the repair(s) or correction(s) are not made in this time period, the HACFM will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by Section 8 Coordinator or higher. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP contract will terminate when assistance is terminated.

## **Chapter 11**

### **OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS**

[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]]

#### **INTRODUCTION**

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the "merger date". These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

In accordance with the regulations, effective 10/1/99, for those Section 8 participant families where there is a HAP contract in effect entered into prior to October 1, 1999, the HACFM will:

Continue to uphold the rent calculation methods of the pre-merger certificate (regular) tenancies until the 2<sup>nd</sup> regular reexamination of family income and composition following the "merger date."

Utilize the Housing Choice Voucher rent calculation methods described at 24 CFR 982.502 and 982.505 for pre-merger voucher [and OFTO] tenancies.

However, all new leases, moves and new admissions taking effect on or after October 1, 1999 will be subject to the regulations of the new Housing Choice Voucher Program.

The HACFM will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the HACFM's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This chapter explains the HACFM's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

#### **A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM**

The rent to owner is limited only by rent reasonableness. The HACFM must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, if the gross rent for the unit exceeds the applicable payment standard for the family, the family share may not exceed 40 percent of the family's monthly adjusted income.

During the initial term of the lease, the owner may not raise the rent to owner.

## **B. MAKING PAYMENTS TO OWNERS** [24 CFR 982.451]

Once the HAP contract is executed, the HACFM begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made manually to the HAP Register for the following month. Checks are disbursed by the Housing Authority of the City of Fort Myers to the owner each month. Checks may not be picked up by owner at the HACFM. Checks will only be disbursed on the first day of the month. Exceptions may be made with the approval of Section 8 Coordinator or higher in cases of hardship.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

### **Excess Payments**

The total of rent paid by the tenant plus the HACFM housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the HACFM.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the HACFM" chapter of this Administrative Plan.

### **Late Payments to Owners**

It is a local business practice in Lee County for property managers and owners to charge tenants a reasonable late fee for rents not received by the owner or property manager by the due date, notwithstanding any grace period which is typically 5 days past the first of the month.

Therefore, in keeping with generally accepted practices in the local housing market, the HACFM must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

Proof of "Mailed to" date will be the:

- \*date indicated on the HAP Register and the date on the copy of the check

Proof of "Received by Owner" will be:

- if no complaint of not receiving the check within 14 days and the check has cleared the HACFM's account.

To assist the HACFM in its outreach efforts to owners, and to provide better customer service, the HACFM will offer to make automatic monthly HAP deposits into the bank account of the owner. If the owner agree to such an arrangement with the HACFM, the date the bank shows as the deposit date, will be the official date of record and will be the determining factor in cases involving late payment penalties.

The HACFM will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the HACFM's control, such as a delay in the receipt of program funds from HUD. The HACFM will use administrative fee income or the administrative fee reserve as its only source for late payment penalty.

The HACFM will not use any program funds for the payment of late fee penalties to the owner.

### **C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]**

The HACFM will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

The HACFM will not approve a lease until the HACFM determines that the initial rent to owner is a reasonable rent. The HACFM must re-determine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The HACFM must re-determine rent reasonableness if directed by HUD and based on a need identified by the HACFM's auditing system. The HACFM may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by the HACFM

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the HACFM information on rents charged by the owner for other units in the premises or elsewhere. The HACFM will only request information on the owner's units elsewhere if the HACFM has cause to demonstrate that the owner has a tendency to charge higher rents to program participants or if needed for rent reasonableness comparables.

The data for other unassisted units will be gathered from newspapers, Realtors, professional associations, inquiries of owners, market surveys, and other available sources

The market areas for rent reasonableness are **zip codes, subdivisions, and neighborhood** within the HACFM's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

- Size (number of Bedrooms/square footage)
- Location
- Quality
- Amenities (bathrooms, dishwasher, air conditioning, etc.)
- Housing Services
- Age of unit
- Unit Type
- Maintenance
- Utilities

## **Rent Reasonableness Methodology**

The HACFM utilizes a rent reasonableness system through GoSection.com which includes and defines the HUD factors listed above. The system has a total point count which is divided into rating categories.

Information is gathered on rental units in the Housing Authority of the City of Fort Myers Agency market area, and each unit is rated, using the HACFM's rent reasonableness system. The HACFM also relies on the Internet and various websites to gather rental market studies. Using an automated method, the average rents are identified for units of like size and type within the same market area. Each defined factor of the items listed above on the unit to be assisted will be compared, using a point adjustment system, to those factors of comparable unassisted units in the database. The average will be adjusted up or down based on the dollar value of all HUD required comparable items in comparison with the total database.

GoSection8.com uses an "appraisal" method and tests the subject unit against selected units in the same area with similar characteristics. Adjustments are made for favorable and unfavorable differences between the subject unit and the comparables. Each of the HUD factors is given a point values.

**D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM** [24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the HACFM's discretion, the Voucher Payment Standard amount is set by the HACFM between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The HACFM reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the HACFM will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

The HACFM will establish a single voucher payment standard amount for each FMR area in the HACFM jurisdiction. For each FMR area, the HACFM will establish payment standard amounts for each "unit size". The HACFM may have a higher payment standard within the HACFM's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

The HACFM may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

As a result of the Housing Authority of the City of Fort Myers being awarded HUD-VASH Vouchers, it must now assist homeless veterans in jurisdictions outside of Lee County. For purposes of establishing payment standards outside of Lee County, the HACFM has set the Payment Standards between 90 -100% of the FMR for all bedroom sizes for the counties listed below:

- **HIGHLANDS COUNTY**
- **GLADES COUNTY**
- **HENDRY COUNTY**
- **OKEECHOBEE COUNTY**



**E. ADJUSTMENTS TO PAYMENT STANDARDS** [24 CFR 982.503]

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The HACFM will not raise Payment Standards solely to make "high end" units available to Voucher holders. The HACFM may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

**Assisted Families' Rent Burdens**

The HACFM will review its voucher payment standard amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30% of their annual adjusted income for rent.

If it is determined that particular unit sizes in the HACFM's jurisdiction have payment standard amounts that are creating rent burdens for families, the HACFM will modify its payment standards for those particular unit sizes.

The HACFM will increase its payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in the HACFM's jurisdiction are paying.

The HACFM will establish a separate voucher payment standard, within the basic range, for designated parts its jurisdiction if it determines that a higher payment standard is needed in these designated areas to provide families with quality housing choices and to give families an opportunity to move outside areas of high poverty and low income.

### **Quality of Units Selected**

The HACFM will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

### **HACFM Decision Point**

The HACFM will review the average percent of income of families on the program. If more than (percent B 25%) of families are paying more than 30% of monthly adjusted income, the HACFM will determine whether there is a difference by voucher size, whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the HACFM in the Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the HACFM may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, the HACFM will continue increasing the payment standard.

### **Rent to Owner Increases**

The HACFM may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

### **Time to Locate Housing**

The HACFM may consider the average time period for families to lease up under the Voucher program. If more than **25%** of Voucher holders are unable to locate suitable housing within the term of the voucher and the HACFM determines that this is due to **30%** of rents in the jurisdiction being unaffordable for families even with the presence of a voucher the Payment Standard may be adjusted.

### **Lowering of the Payment Standard**

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

### **Financial Feasibility**

Before increasing the Payment Standard, the HACFM may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the HACFM will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

### **File Documentation**

A file will be retained by the HACFM for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

## **F. EXCEPTION PAYMENT STANDARDS**

If the dwelling unit is located in an exception area, the HACFM must use the appropriate payment standard amount established by the HACFM for the exception area in accordance with regulation at 24 CFR 982.503(c).

## **G. OWNER PAYMENT IN THE PREMERGER REGULAR CERTIFICATE PROGRAM** [24 CFR 982.502(d), 982.519, 982.520]

The HUD regulations relating to owner rent adjustments applicable to the regular tenancy (certificate) program will be used until the HAP contract is no longer effective which will be no later than the second regular reexamination of the family after the merger date.

The HACFM **will** notify owners of their right to request a rent adjustment.

Owners must request the rent increase in writing **on the form provided by the HACFM**. Any increase will be effective the later of (1) the anniversary date of the contract, or (2) at least 60 days after the owner's request is received.

The approval or disapproval decision regarding the adjustment will be based on HUD-required calculations and a rent reasonableness determination. The adjustment may be an increase or a decrease.

The notice of rent change does not affect the automatic renewal of the lease and does not require a new lease or contract or even an executed amendment.

For terminations of Pre-merger Regular Certificate HAPs, see "Contract Terminations" chapter.

To receive an increase resulting from the annual adjustment for an annual anniversary date, the owner must request the increase at least sixty days before the next annual anniversary date.

The rent to owner for a unit will not be increased at the annual anniversary date unless, during the year before the anniversary date, the owner has complied with all requirements of the HAP contract, including compliance with HQS.

## **I. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM** [(24CFR 982.308(g))]

The owner is required to notify the HACFM, in writing, at least sixty days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. See 24 CFR 982.503.

## Chapter 12

### REEXAMINATIONS

#### INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

#### **PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]**

##### **12-I.A. OVERVIEW**

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

## **12-I.B. SCHEDULING ANNUAL REEXAMINATIONS**

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

### HACFM Policy

HACFM will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, HACFM will schedule annual reexamination effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, HACFM will perform a new annual reexamination.

HACFM also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

### **Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA.

### HACFM Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the HACFM to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact HACFM in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, HACFM will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HACFM approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and HACFM must execute a certification attesting to the role and assistance of any such third party.

## **12-I.C. CONDUCTING ANNUAL REEXAMINATIONS**

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

### HACFM Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a HACFM-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS), HACFM must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, HACFM must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

## **12-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]**

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

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, 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. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

### HACFM Policy

During the annual reexamination process, HACFM will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), HACFM will process a reexamination in accordance with the policies in this chapter.



## 12-I.E. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

### HACFM Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If HACFM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by HACFM, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If HACFM chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by HACFM.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by HACFM by the date specified, and this delay prevents HACFM from completing the reexamination as scheduled.

## **PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]**

### **12-II.A. OVERVIEW**

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

### **12-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

#### HACFM Policy

HACFM will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

#### **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 HACFM approval. However, the family is required to promptly notify HACFM of the addition [24 CFR 982.551(h)(2)].

#### HACFM Policy

The family must inform the PHA of the birth, adoption or court-awarded custody of a child within 10 business days.

## **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

### HACFM Policy

Families must request HACFM approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days, or 90 cumulative days, within a twelve month period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the HACFM prior to the individual moving in the unit.

HACFM will not approve the addition of a new family or household member unless the individual meets HACFM’s eligibility criteria.

HACFM will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If HACFM determines an individual meets HACFM’s eligibility criteria as defined in this Administrative Plan, HACFM 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 HACFM determines that an individual does not meet HACFM’s eligibility criteria, HACFM 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.

HACFM will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

## **Departure of a Family or Household Member**

Families must promptly notify the PHA 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], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

### **HACFM Policy**

If a household member ceases to reside in the unit, the family must inform HACFM within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform HACFM within 10 business days.

## **12 II.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

### **PHA-Initiated Interim Reexaminations**

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

#### HACFM Policy

HACFM will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), HACFM will conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income, HACFM will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), HACFM will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, HACFM will conduct an interim reexamination.

HACFM may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

## **Family-Initiated Interim Reexaminations**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

### ***Required Reporting***

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

#### HACFM Policy

Families are required to report all increases in household income, including new employment, within 10 business days of the date the change takes effect.

HACFM will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, HACFM will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

### ***Optional Reporting***

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

#### HACFM Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, HACFM will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, HACFM will conduct an interim reexamination. See Section 11-II.D. for effective dates.

Families may report changes in income or expenses at any time.

## 12-II.D. PROCESSING THE INTERIM REEXAMINATION

### Method of Reporting

#### HACFM Policy

The family must notify HACFM of changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if HACFM determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, HACFM will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from HACFM. This time frame may be extended for good cause with HACFM approval. HACFM will accept required documentation by mail, by fax, or in person.

### Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

#### HACFM Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies and procedures.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

## **PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT**

### **12-III.A. OVERVIEW**

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### **12-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

#### **Payment Standards [24 CFR 982.505]**

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has *increased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.



### **Subsidy Standards [24 CFR 982.505(c)(4)]**

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

### **Utility Allowances [24 CFR 982.517(d)]**

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

#### HACFM Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

### **12-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA'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)].

#### HACFM Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

### **12-III.D. DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies.

## Chapter 13

### MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

#### INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

#### PART I: MOVING WITH CONTINUED ASSISTANCE

##### 10-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The Violence Against Women Reauthorization Act of 2005 provides that "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit" [Pub. L. 109-162]
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

##### HACFM Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the HACFM a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the HACFM a copy of any owner eviction notice [24 CFR 982.551(g)].
- The HACFM has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The HACFM determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the HACFM must issue the family a new voucher, and the family and HACFM must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the HACFM must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACFM gives notice to the owner. [24 CFR 982.403(a) and (c)]

## **10-I.B. RESTRICTIONS ON MOVES**

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

### **Denial of Moves**

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

#### ***Insufficient Funding***

The PHA may deny a family permission to move if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

##### HACFM Policy

The HACFM will deny a family permission to move on grounds that the HACFM does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the HACFM; (b) the HACFM can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the HACFM can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the HACFM's jurisdiction as well as to moves outside it under portability.

#### ***Grounds for Denial or Termination of Assistance***

The PHA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations, but have moved 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 imminently threatened by harm from further violence if they remained in the unit. [Pub. L. 109-162]

##### HACFM Policy

If the HACFM has grounds for denying or terminating a family's assistance, the HACFM will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances. Refer to sections 3-III.G and 12-II.E for VAWA provisions.

### **Restrictions on Elective Moves [24 CFR 982.314(c)]**

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period.

#### HACFM Policy

The HACFM will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the HACFM's jurisdiction or outside it under portability.

The HACFM will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the HACFM's jurisdiction.

The HACFM will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the HACFM will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

## **10-I.C. MOVING PROCESS**

### **Notification**

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

### **Approval**

#### HACFM Policy

Upon receipt of a family's notification that it wishes to move, the HACFM will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. The HACFM will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

### **Reexamination of Family Income and Composition**

#### HACFM Policy

For families approved to move to a new unit within the HACFM's jurisdiction, the HACFM will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the HACFM's jurisdiction under portability, the HACFM will follow the policies set forth in Part II of this chapter.

### **Voucher Issuance and Briefing**

#### HACFM Policy

For families approved to move to a new unit within the HACFM's jurisdiction, the HACFM will issue a new voucher within 10 business days of the HACFM's written approval to move. No briefing is required for these families. The HACFM will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the HACFM approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the HACFM's jurisdiction under portability, the HACFM will follow the policies set forth in Part II of this chapter.

### **Housing Assistance Payments [24 CFR 982.311(d)]**

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

## **PART II: PORTABILITY**

### **10-II.A. OVERVIEW**

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA**. The second is called the **receiving PHA**.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.



## **10-II.B. INITIAL PHA ROLE**

### **Allowable Moves under Portability**

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

### ***Applicant Families***

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

#### HACFM Policy

In determining whether or not to deny an applicant family permission to move under portability because the HACFM lacks sufficient funding or has grounds for denying assistance to the family, the initial HACFM will follow the policies established in section 10-I.B of this chapter.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

#### HACFM Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the HACFM's jurisdiction at the time the family's application for assistance was submitted, the family must live in the HACFM's jurisdiction with voucher assistance for at least 12 months before requesting portability.

HACFM will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to the approval of the receiving HACFM [24 CFR 982.353(c)(3)].

HACFM will allow applicants receiving a mainstream voucher to use portability prior to leasing in the jurisdiction.

### ***Participant Families***

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

#### **HACFM Policy**

The HACFM will determine whether a participant family may move out of the HACFM's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The HACFM will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

### **Determining Income Eligibility**

#### ***Applicant Families***

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

#### ***Participant Families***

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

### **Reexamination of Family Income and Composition**

No new reexamination of family income and composition is required for an applicant family.

#### **HACFM Policy**

For a participant family approved to move out of its jurisdiction under portability, the HACFM generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The HACFM will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

## **Briefing**

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

### HACFM Policy

No formal briefing will be required for a participant family wishing to move outside the HACFM's jurisdiction under portability. However, the HACFM will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). The HACFM will provide the name, address, and phone of the contact for the HACFM in the jurisdiction to which they wish to move. The HACFM will advise the family that they will be under the RHA's policies and procedures, including subsidy standards and voucher extension policies.

## **Voucher Issuance and Term**

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

### HACFM Policy

For families approved to move under portability, the HACFM will issue a new voucher within 10 business days of the HACFM's written approval to move.

The initial term of the voucher will be 60 days.

## **Voucher Extensions and Expiration**

### HACFM Policy

The HACFM will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the HACFM's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

## **Initial Contact with the Receiving PHA**

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

### HACFM Policy

Because the portability process is time-sensitive, the HACFM will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The PHA will pass this information along to the family. The PHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

## **Sending Documentation to the Receiving PHA**

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family's voucher [Notice PIH 2004-12]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

### HACFM Policy

In addition to these documents, the HACFM will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all family members age 6 and over

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program

The HACFM will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

### **Initial Billing Deadline [Notice PIH 2004-12]**

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

#### **HACFM Policy**

If the HACFM has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the PHA reports that the family is not yet under HAP contract, the PHA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The HACFM will send the receiving PHA a written confirmation of its decision by mail.

The HACFM will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

### **Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12]**

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

#### **HACFM Policy**

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them.

## **Annual Updates of Form HUD-50058**

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

## **Subsequent Family Moves**

### ***Within the Receiving PHA's Jurisdiction [24 CFR 314(e)(1), Notice PIH 2005-1]***

The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

#### HACFM Policy

If the PHA determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-I.B), it will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the PHA's jurisdiction.

The PHA will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities.

### ***Outside the Receiving PHA's Jurisdiction [Notice PIH 2004-12]***

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

## **Denial or Termination of Assistance [24 CFR 982.355(c)(9)]**

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

## **10-II.C. RECEIVING PHA ROLE**

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].

### **Initial Contact with Family**

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

### **HACFM Policy**

Within 10 business days after a portable family requests assistance, the receiving PHA will notify the HACFM whether it intends to bill the HACFM on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under "Denial or Termination of Assistance.")

## **Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2004-12].

### HACFM Policy

The HACFM will not require the family to attend a briefing. The HACFM will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the HACFM's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. The HACFM will suggest that the family attend a full briefing at a later date.

## **Income Eligibility and Reexamination**

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

### HACFM Policy

For any family moving into its jurisdiction under portability, the HACFM will conduct a new reexamination of family income and composition. However, the HACFM will not delay issuing the family a voucher for this reason. Nor will the HACFM delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the HACFM cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the HACFM will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.



## **Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(6)].

### ***Timing of Voucher Issuance***

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2004-12].

#### **HACFM Policy**

When a family ports into its jurisdiction, the HACFM will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The HACFM will update the family's information when verification has been completed.

### ***Voucher Term***

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

#### **HACFM Policy**

The receiving PHA's voucher will expire on the same date as the initial PHA's voucher.

### ***Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]***

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

#### **HACFM Policy**

The HACFM generally will not extend the term of the voucher that it issues to an incoming portable family unless the HACFM plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The HACFM will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

## **Notifying the Initial PHA**

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [Notice PIH 2004-12]

## **Administering a Portable Family's Voucher**

### ***Initial Billing Deadline***

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2004-12]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

### **HACFM Policy**

The HACFM will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH 2004-12].

### ***Ongoing Notification Responsibilities [Notice PIH 2004-12, HUD-52665]***

**Annual Reexamination.** The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

#### **HACFM Policy**

The HACFM will send a copy of the updated HUD-50058 by regular mail at the same time the PHA and owner are notified of the reexamination results.

**Change in Billing Amount.** The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

### ***Late Payments [Notice PIH 2004-12]***

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

### ***Overpayments [Notice PIH 2004-12]***

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2004-12.

### ***Denial or Termination of Assistance***

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

#### **HACFM Policy**

If the HACFM elects to deny or terminate assistance for a portable family, the HACFM will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The HACFM will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the HACFM with a copy of the review or hearing decision.

## **Absorbing a Portable Family**

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over leasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2004-12]

### HACFM Policy

If the HACFM decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the HACFM will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the HACFM decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

## **Chapter 14**

### **OWNERS**

#### **INTRODUCTION**

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

## **PART I. OWNERS IN THE HCV PROGRAM**

### **14-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]**

#### **Recruitment**

PHAs are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

#### HACFM Policy

The HACFM will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The HACFM will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Holding owner recruitment/information meetings at least once a year
- Participating in community based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

## **Retention**

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

### HACFM Policy

All HACFM activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The HACFM will provide owners with a handbook that explains the program, including HUD and HACFM policies and procedures, in easy-to-understand language.

The HACFM will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated HACFM contact person.

- Coordinating inspection and leasing activities between the HACFM, the owner, and the family.

- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.

- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.



## **14-I.B. BASIC HCV PROGRAM REQUIREMENTS**

HUD requires the PHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

### HACFM Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HACFM. The HACFM will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

The PHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, the PHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

#### **14-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452, Pub.L. 109-162]**

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the PHA), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the family under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

### **13-I.D. OWNER QUALIFICATIONS**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

#### **Owners Barred from Participation [24 CFR 982.306(a) and (b)]**

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

#### **Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]**

The PHA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

#### **Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]**

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

#### HACFM Policy

In considering whether to request a conflict of interest waiver from HUD, the HACFM will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

## **Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]**

HUD regulations permit the PHA, at the PHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

### HACFM Policy

The HACFM will refuse to approve a request for tenancy if the HACFM becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

- The owner has engaged in any drug-related criminal activity or any violent criminal activity;

- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the HACFM, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

- The owner has a history or practice of renting units that fail to meet state or local housing codes; or

- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the PHA may, on a case-by-case basis, choose to approve an owner.

## **Legal Ownership of Unit**

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

### HACFM Policy

The HACFM will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

## **14-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

## **PART II. HAP CONTRACTS**

### **14-II.A. OVERVIEW**

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.



## **14-II.B. HAP CONTRACT CONTENTS**

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of PHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

### HACFM Policy

The HACFM has not adopted a policy that defines when the housing assistance payment by the HACFM is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

## **14-II.C. HAP CONTRACT PAYMENTS**

### **General**

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the PHA HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

### **Owner Certification of Compliance**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

### **Late HAP Payments [24 CFR 982.451(a)(5)]**

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

### **Termination of HAP Payments [24 CFR 982.311(b)]**

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

#### HACFM Policy

The owner must inform the HACFM when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the HACFM when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the HACFM with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the HACFM will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the HACFM of the date when the family actually moves from the unit or the family is physically evicted from the unit.

#### **14-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]**

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

##### HACFM Policy

Before the HACFM invokes a remedy against an owner, the HACFM will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the HACFM will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the HACFM will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

#### **14-II.E. HAP CONTRACT TERM AND TERMINATIONS**

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

##### HACFM Policy

The HACFM may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;

The unit does not meet HQS [24 CFR 982.404] – see chapter 8;

The family breaks up [HUD Form 52641] – see chapter 3;

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

#### HACFM Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACFM gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the HACFM any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

#### **14-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]**

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

##### HACFM Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The HACFM must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the HACFM will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the HACFM that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;

- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

- The effective date of the HAP contract assignment;

- A written agreement to comply with the terms of the HAP contract; and

- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the PHA will process the leasing in accordance with the policies in chapter 9.



## Chapter 15

### TERMINATION OR DENIAL OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a HACFM can terminate or deny a family's assistance and the ways in which such terminations and denials must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations or denial of assistance and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination or denial of Assistance. This part discusses various reasons that a family's assistance may be terminated or denied, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination or denial by the HACFM based on the family's behavior.

Part II: Approach to Termination or denial of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the HACFM may consider in lieu of termination or denial, the criteria the HACFM must use when deciding what action to take, and the steps the HACFM must take when terminating or denying a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

#### PART I: GROUNDS FOR TERMINATION OR DENIAL OF ASSISTANCE

##### OVERVIEW

HUD requires the HACFM to terminate or deny assistance for certain offenses and when the family no longer requires assistance. HUD permits the HACFM to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the HACFM.

#### FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

##### HACFM Policy

As a family's income increases, the amount of HACFM's subsidy goes down. If the amount of HCV assistance provided by HACFM drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the HACFM of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

## **FAMILY CHOOSES TO TERMINATE ASSISTANCE**

The family may request that the HACFM terminate the family's assistance at any time.

### **HACFM Policy**

The request to terminate assistance must be made in writing and signed by the head of household, spouse, or co-head

## **MANDATORY TERMINATION OF ASSISTANCE**

HUD requires HACFM to terminate assistance in the following circumstances.

### **Eviction [24 CFR 982.552(b)(2)]**

The HACFM must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

### **HACFM Policy**

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, HACFM will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance.

Serious and repeated lease violations will include, but are not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

### **Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The HACFM must terminate or deny assistance if any family member fails to sign and submit any consent form they are required to sign for a initial application or reexamination.

### **Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

HACFM must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the HACFM, has knowingly permitted another individual who is not eligible for assistance to reside in the unit. For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

**Failure to Provide Social Security Documentation [24 CFR 5.218(c)]**

HACFM must terminate or deny assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.

**Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]**

HACFM must terminate or deny assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

**Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, and is not residing with his/her parents in an HCV assisted household, HACFM must then terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and HACFM policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

**MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS AND DENIALS****Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HACFM has established policies that permit HACFM to terminate or deny assistance if HACFM determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Any household member that has violated the family's obligation not to engage in any drug-related criminal activity;
- Any household member has violated the family's obligation not to engage in violent criminal activity.

## **Use of Illegal Drugs and Alcohol Abuse**

### **HACFM Policy**

The HACFM will terminate a family's assistance if any household member, live-in-aide or guests is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

HACFM will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

HACFM will deny assistance for any drug activity or abuse of alcohol within the past 5 years

HACFM will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate or deny assistance, HACFM will consider alternatives on a case-by-case basis, choose not to terminate or deny assistance.

## **Drug and Violent Criminal Activity [24 CFR 5.100]**

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

### **HACFM Policy**

HACFM will terminate a family's assistance if any household member, live-in-aide or guests has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

HACFM will consider all credible evidence and the preponderance of evidence, that the household member has engaged in , regardless of whether the household member has been arrested or convicted for such activity. The evident may or may not include record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

HACFM will deny assistance for any drug activity or violent criminal activity within the past 5 years.

In making its decision to terminate assistance, HACFM will consider alternatives on a case-by-case basis, choose not to terminate assistance.

### **Other Authorized Reasons for Termination or Denial of Assistance** **[24 CFR 982.552(c)]**

HUD permits the HACFM to terminate or deny assistance under a number of other circumstances. It is left to the discretion of the HACFM whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits HACFMs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

#### **HACFM Policy**

HACFM **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program, HACFM will terminate the family from the FSS program.

The HACFM **will** terminate or deny a family's assistance if:

- The family has failed to comply with any family obligations under the program.

- Any family member has been evicted from federally-assisted housing in the last five years.

- Any PHA has ever terminated assistance under the program for any member of the family in the last five years.

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

- The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.

- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

- The family has breached the terms of a repayment agreement entered into with the HACFM or any other PHA.

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

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

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

In making its decision to terminate assistance, HACFM will consider alternatives on a case-by-case basis, choose not to terminate assistance.

### **Family Absence from the Unit [24 CFR 982.312]**

The family may be absent from the unit for brief periods. The HACFM must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

#### **HACFM Policy**

HACFM will consider a family absent from the unit for more than 30 consecutive days without PHA approval or reasonable accommodation (such as hospitalization or rehabilitation) vacant and the family's assistance will be terminated.

If the family is absent from the unit for more than 180 consecutive calendar days for any circumstances, the family's assistance must be terminated. Notice of termination will be sent to the family.

### **Insufficient Funding [24 CFR 982.454]**

The HACFM may terminate HAP contracts if the HACFM determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

#### **HACFM Policy**

HACFM will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Chapter 21. If HACFM determines there is a shortage of funding, prior to terminating any HAP contracts, HACFM will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, HACFM will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, HACFM will inform the local HUD field office. HACFM will terminate the minimum number needed in order to reduce HAP costs to a level within the HACFM's annual budget authority.

If HACFM must terminate HAP contracts due to insufficient funding, HACFM will do so in accordance with the following criteria and instructions:

#### **Refer to Chapter 21 - Cost Saving Options**

## **PART II: APPROACH TO TERMINATION OR DENIAL OF ASSISTANCE**

### **OVERVIEW**

The HACFM is required by regulation to terminate or deny a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the HACFM the discretion to either terminate or deny the family's assistance or to take another action. This part

discusses the various actions the HACFM may choose to take when it has discretion, and outlines the criteria the HACFM will use to make its decision about whether or not to terminate or deny assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

## **METHOD OF TERMINATION OR DENIAL [24 CFR 982.552(a)(3)]**

The way in which the HACFM terminates denies assistance depends upon individual circumstances. HUD permits HACFM to terminate deny assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.
- Deny listing on HACFM waitlist.
- Denying or withdrawing a voucher.
- Refusing to enter into a HAP Contract or approve a lease.

## **ALTERNATIVES TO TERMINATION DENYING OF ASSISTANCE**

### **Change in Household Composition**

As a condition of continued assistance, the HACFM may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

#### **HACFM Policy**

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon HACFM request.

### **Repayment of Family Debts**

#### **HACFM Policy**

If a family owes amounts to the HACFM, as a condition of continued assistance, HACFM will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from HACFM of the amount owed.

HACFM will deny assistance if an applicant currently owes money to any federally funded housing program or PHA unless the debt is paid in full within ten days of notification to the applicant.

## **CRITERIA FOR DECIDING TO TERMINATE OR DENY ASSISTANCE**

### **Evidence**

For criminal activity, HUD permits the HACFM to terminate or deny assistance if a preponderance of the evidence indicates that a household member has engaged in the activity,

regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

### **HACFM Policy**

HACFM will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

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

The HACFM is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

### **HACFM Policy**

HACFM will consider the following factors when making its decision to terminate or deny assistance:

- The seriousness of the case, especially with respect to how it would affect other residents;

- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure;

- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, or stalking;

- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;

- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully;

- The HACFM will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully;

- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

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

If the family includes a person with disabilities, the HACFM's decision to terminate or deny the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.



### **HACFM Policy**

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, HACFM will determine whether the behavior is related to the disability. If so, upon the family's request, HACFM will determine whether alternative measures are appropriate as a reasonable accommodation. HACFM will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

### **TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS**

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that "criminal activity directly relating to domestic violence, dating violence, 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 a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking."

VAWA also gives HACFMs the authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

VAWA does not limit the authority of the HACFM to terminate the assistance of any participant if the HACFM "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance."

### **Victim Documentation**

#### **HACFM Policy**

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 immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, HACFM will require the individual to submit documentation affirming that claim.

The documentation must include two elements:

A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and

One of the following:

A police or court record documenting the actual or threatened abuse, or

A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the

actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The required certification and supporting documentation must be submitted to HACFM within 14 business days after HACFM issues their written request. The 14-day deadline may be extended at HACFM's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, HACFM may proceed with assistance termination.

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

### **Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the HACFM the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority supersedes any local, state, or other federal law to the contrary. However, if the HACFM chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance.

#### **HACFM Policy**

When the actions of a participant or other family member result in HACFM's decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, HACFM will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, HACFM will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, HACFM will proceed with termination of the family's assistance.

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

### **HACFM Confidentiality Requirements**

All information provided to HACFM regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related

entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

## **TERMINATION OR DENIAL NOTICE**

If a family's assistance is to be terminated or denied, whether voluntarily or involuntarily, the HACFM must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family's right to an informal hearing or informal review..
- If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

### **HACFM Policy**

- When termination is initiated by HACFM, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the HACFM, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time HACFM learns the family has vacated the unit.
- When a family requests to be terminated from the program they must do so in writing to HACFM. HACFM will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).
- HACFM will give an applicant a notice of denial containing a brief statement of the PHA's decision to deny and how the applicant can request an informal review.

### **Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]**

The HACFM must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the HACFM determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

### **HACFM Policy**

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in

support of the appeal, and that they have the right to request an informal hearing with HACFM either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

## **HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE**

When the family's assistance is terminated, the lease and HAP contract terminate automatically. The owner may offer the family a separate unassisted lease.

### **PART III: TERMINATION OF TENANCY BY THE OWNER**

#### **OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family and HACFM is not directly involved. The owner is under some constraints when terminating an assisted tenancy. The reasons for which a tenancy is terminated will dictate whether assistance also will be terminated.

#### **GROUND FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 , Tenancy Addendum**

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

##### **Serious or Repeated Lease Violations**

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. This includes failure to pay rent or other amounts due under the lease. However, the HACFM's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

##### **Violation of Federal, State, or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

##### **Criminal Activity or Alcohol Abuse**

The owner may terminate tenancy during the term of the lease if any covered person, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

### **Evidence of Criminal Activity**

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking.

### **Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

## **EVICTIION [24 CFR 982.310(e) and (f) , Tenancy Addendum]**

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action

### **HACFM Policy**

The owner must give HACFM a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give HACFM a copy of any eviction notice.

If the eviction action is finalized in court, the owner must provide HACFM with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

## **DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]**

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household

member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA).

## **EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the HACFM has no other grounds for termination of assistance, the HACFM may issue a new voucher so that the family can move with continued assistance.

<b>STATEMENT OF FAMILY OBLIGATIONS</b>
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Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the HACFM or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the HACFM or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- The family must allow the HACFM to inspect the unit at reasonable times and after reasonable notice.
- The family must not commit any serious or repeated violation of the lease.
- The family must notify the HACFM and the owner before moving out of the unit or terminating the lease.
- The family must promptly give the HACFM a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

- The composition of the assisted family residing in the unit must be approved by the HACFM. The family must promptly notify the HACFM in writing of the birth, adoption, or court-awarded custody of a child. The family must request HACFM approval to add any other family member as an occupant of the unit.
- The family must promptly notify the HACFM in writing if any family member no longer lives in the unit.
- If the HACFM has given approval, a foster child or a live-in aide may reside in the unit. The HACFM has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HACFM consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.
- The family must supply any information requested by the HACFM to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the HACFM when the family is absent from the unit.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter PI, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter for HUD and HACFM policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter for a discussion of HUD and HACFM policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the HACFM has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]



### **HACFM Policy**

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

HACFM will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to HACFM at the same time the owner is notified.

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. HACFM will determine eligibility of the new member.

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

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the HACFM at the start of the extended absence.

## Chapter 16

### PROGRAM ADMINISTRATION

#### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

## **PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

### HACFM Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed \$10,000 per occurrence without the prior approval of the HACFM's Board of Commissioners'

## **PART II: SETTING PROGRAM STANDARDS AND SCHEDULES**

### **16-II.A. OVERVIEW**

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- Payment Standards, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- Utility Allowances, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

### HACFM Policy

Copies of the payment standard and utility allowance schedules are available for review in the HACFM's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The HACFM will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

### **16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]**

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

### HACFM Policy

HACFM has establish a payment standard schedule that establishes payment standard amounts for each FMR area within HACFM's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, HACFM has establish a single payment

standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. HACFM has established a payment standard within a “basic range” established by HUD – between 90 and 110 percent of the published FMR for each unit size.

## **Updating Payment Standards** [24 CFR 982.503(b)].

### HACFM Policy

HACFM will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the “basic range” the HACFM will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability:** The HACFM will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The HACFM will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the HACFM will consider increasing the payment standard. In evaluating rent burdens, the HACFM will not include families renting a larger unit than their family unit size.

**Quality of Units Selected:** The HACFM will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

**Changes in Rent to Owner:** The HACFM may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

**Unit Availability:** The HACFM will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate:** The HACFM will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on December 1<sup>st</sup> of every year unless, based on the proposed FMRs, it appears that one or more of the HACFM's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the PHAs payment standards will be effective October 1<sup>st</sup> instead of December 1<sup>st</sup>.

If HACFM has already processed reexaminations that will be effective on or after October 1<sup>st</sup>, and the effective date of the payment standards is October 1<sup>st</sup>, HACFM will make retroactive adjustments to any such reexaminations if the new payment standard

amount is higher than the one used by HACFM at the time the reexamination was originally processed.

### **Exception Payment Standards [982.503(c)]**

HA FM will request HUD approval to establish payment standards that are higher than the basic range if needed.

At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

### **Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]**

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

#### HACFM Policy

A family that requires a reasonable accommodation (See Chapter 2 for a discussion of reasonable accommodations), may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the HACFM must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

### **"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

#### HACFM Policy

If HACFM finds a substantial percentage of families have difficulty finding a suitable unit, HACFM may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows HACFM to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, HACFM must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;

- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, HACFM may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

#### **Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]**

##### HACFM Policy

HACFM will request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

#### **16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]**

##### HACFM Policy

HACFM established utility allowance schedules are used in determining family share and HACFM subsidy. HACFM maintains a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule is determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. HACFM uses a 3rd party vendor to determine normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance includes the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, HACFM classifies utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type.

## **Air Conditioning**

### HACFM Policy

The HACFM has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the HACFM will apply this allowance to a family's rent and subsidy calculations. The utility allowance for the family is the lower of the voucher size issued or actual bedroom sized lease.

## **Reasonable Accommodation**

### HACFM Policy

HACFM will approve a utility allowance amount higher than shown on the HACFM's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, HACFM will approve an allowance for air-conditioning, even if the HACFM has determined that an allowance for air-conditioning generally is not needed.

## **Utility Allowance Revisions**

### HACFM Policy

HACFM will review its schedule of utility allowances each year, and will revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

HACFM will maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

## **PART III: INFORMAL REVIEWS AND HEARINGS**

### **16-III.A. OVERVIEW**

When the PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

### **16-III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

#### **Decisions Subject to Informal Review**

##### HACFM Policy

HACFM will give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on HACFM waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)

Informal reviews are not required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the HACFM
- General policy issues or class grievances
- A determination of the family unit size under the HACFM subsidy standards
- HACFM determination not to grant approval of the tenancy
- HACFM determination that the unit is not in compliance with the HQS
- HACFM determination that the unit is not in accordance with the HQS due to family size or composition



The HACFM will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the HACFM waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

#### **Notice to the Applicant [24 CFR 982.554(a)]**

HACFM will give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for HACFM's decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

#### **Scheduling an Informal Review**

##### HACFM Policy

A request for an informal review must be made in writing and delivered to the HACFM either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HACFM's denial of assistance.

HACFM must schedule and send written notice of the informal review within 10 business days of the family's request.

#### **Informal Review Procedures [24 CFR 982.554(b)]**

##### HACFM Policy

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the HACFM.

The person conducting the review will make a recommendation to the HACFM, but the HACFM is responsible for making the final decision as to whether assistance should be granted or denied.

## **Informal Review Decision [24 CFR 982.554(b)]**

### HACFM Policy

In rendering a decision, the HACFM will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the Notice.

The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The HACFM will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the HACFM will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the HACFM will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

HACFM will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

**16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, Pub.L. 109-162]**

HACFM Policy

HACFM must offer an informal hearing for certain determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to HACFM's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether HACFM's decisions related to the family's circumstances are in accordance with the law, HUD regulations and HACFM policies.

HACFM is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

**Decisions Subject to Informal Hearing**

HACFM Policy

Circumstances for which the HACFM must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HACFM utility allowance schedule
- A determination of the family unit size under HACFM's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under HACFM policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by HACFM
- General policy issues or class grievances
- Establishment of HACFM's schedule of utility allowances for families in the program
- HACFM determination not to approve an extension or suspension of a voucher term
- HACFM determination not to approve a unit or tenancy
- HACFM determination that a unit selected by the applicant is not in compliance with the HQS
- HACFM determination that the unit is not in accordance with HQS because of family size
- A determination by HACFM to exercise or not to exercise any right or remedy against an owner under a HAP contract

## **Informal Hearing Procedures**

### **Notice to the Family [24 CFR 982.555(c)]**

#### HACFM Policy

In cases where the HACFM makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the HACFM.

A brief statement of the reasons for the decision including the regulatory reference.

The date the proposed action will take place.

A statement of the family's right to an explanation of the basis for the HACFM's decision.

A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.

To whom the hearing request should be addressed.

A copy of the HACFM's hearing procedures.

### **Scheduling an Informal Hearing [24 CFR 982.555(d)]**

#### HACFM Policy

A request for an informal hearing must be made in writing and delivered to the HACFM either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HACFM's decision or notice to terminate assistance.

The HACFM must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HACFM may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HACFM within 24 hours of the scheduled hearing date, excluding weekends and holidays. The HACFM will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

**Pre-Hearing Right to Discovery [24 CFR 982.555(e)]**

For the purpose of informal hearings, documents include records and regulations.

**HACFM Policy**

The family will be allowed to copy any documents related to the hearing at a cost per the Florida Statute 119. The family must request discovery of HACFM documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

HACFM must be given an opportunity to examine at the HACFM offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the HACFM will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

**Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

**Informal Hearing Officer [24 CFR 982.555(e)(4)]****HACFM Policy**

The informal hearing shall be conducted by the hearing officer appointed by HACFM who is neither the person that made or approved the decision nor a subordinate of that person. HACFM appoints hearing officers who are HACFM management from departments other than the HCV program, HACFM employees trained as hearing officers in departments other than the HCV program. HACFM also used other PHA's to serve as hearing officers as needed.

## **Attendance at the Informal Hearing**

### HACFM Policy

Hearings may be attended by a hearing officer and the following applicable persons:

A HACFM representative(s) and any witnesses for the HACFM

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the HACFM as a reasonable accommodation for a person with a disability

## **Conduct at Hearings [24 CFR 982.555(4)(ii)]**

### HACFM Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

## **Evidence [24 CFR 982.555(e)(5)]**

### HACFM Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the HACFM. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence:** A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either HACFM or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

## Hearing Officer's Decision [24 CFR 982.555(e)(6)]

### HACFM Policy

In rendering a decision, the hearing officer will consider the following matters:

**HACFM Notice to the Family:** The hearing officer will determine if the reasons for the HACFM's decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if the HACFM and the family were given the opportunity to examine any relevant documents in accordance with HACFM policy.

**PHA Evidence to Support the PHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.

**Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and HACFM no later than 10 business days after the hearing. The report will contain the following information:

#### **Hearing information:**

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of the PHA representative; and

Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.



**Order:** The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

If the participant fails to appear at a scheduled hearing, the hearing officer, for good cause may make a determination to postpone the hearing for a period of time not to exceed five (5) working days (except for an expedited hearing), or may make a determination that the party has waived its right to a hearing. Both the participant and the HACFM will be notified of any such determination by the hearing officer, provided that determination that participant has waived their rights to a hearing shall not constitute a waiver of any right of the participant, may have to contest the PHA's disposition of grievance in an appropriate judicial proceeding.

### **Procedures for Rehearing or Further Hearing**

#### HACFM Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the HACFM will take effect and another hearing will not be granted.

In addition, within 10 business days after the date the hearing officer's report is mailed to the HACFM and the participant, the HACFM or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10 business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the HACFM to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

### **PHA Notice of Final Decision [24 CFR 982.555(f)]**

#### HACFM Policy

HACFM is not bound by the decision of the hearing officer for matters in which HACFM is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If HACFM determines it is not bound by the hearing officer's decision in accordance with HUD regulations, HACFM must promptly notify the family of the determination and the reason for the determination.

The HACFM will mail a “Notice of Final Decision” including the hearing officer’s report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original “Notice of Final Decision” and a copy of the proof of mailing. A copy of the “Notice of Final Decision” along with the original proof mailing will be maintained in the HACFM’s file.

#### **16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

#### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

##### HACFM Policy

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

## **USCIS Appeal Process [24 CFR 5.514(e)]**

### **HACFM Policy**

The HACFM 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 the HACFM 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 HACFM, of its decision. When the USCIS notifies HACFM of the decision, HACFM must notify the family of its right to request an informal hearing.

The HACFM will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

## **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that HACFM provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

### **Informal Hearing Officer**

The PHA 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**

### HACFM Policy

The family will be allowed to copy any documents related to the hearing at a cost per the Florida Statute 119 . The family must request discovery of HACFM documents no later than 12:00 p.m. on the business day prior to the hearing.

The family will be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family will be provided the opportunity to refute evidence relied upon by HACFM, and to confront and cross-examine all witnesses on whose testimony or information HACFM relies.

## **Representation and Interpretive Services**

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

## **Recording of the Hearing**

### HACFM Policy

The HACFM will not provide a transcript of an audio taped hearing unless requested and paid for in advance by the client.

## **Hearing Decision**

### HACFM Policy

HACFM will provide the family with a written final decision, based solely on the facts presented at the hearing, within 10 business days of the date of the informal hearing. The decision must state the basis for the decision.

**Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

**Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

## **PART IV: OWNER OR FAMILY DEBTS TO THE PHA**

### **16-IV.A. OVERVIEW 24 CFR 982.54**

#### HACFM Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the HACFM holds the owner or participant liable to return any overpayments to HACFM.

The HACFM will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to HACFM, HACFM will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

### **16-IV.B. REPAYMENT POLICY**

#### **Owner Debts to the PHA**

##### HACFM Policy

Any amount due to the HACFM by an owner must be repaid by the owner within 30 days of the HACFM determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the HACFM will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the HACFM will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HACFM will ban the owner from future participation in the program and pursue other modes of collection.

#### **Family Debts to the PHA**

##### HACFM Policy

Any amount due to the HACFM by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, HACFM will offer a repayment agreement in accordance with the policies in chapter 18.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the HACFM will terminate the assistance upon notification to the family and pursue other modes of collection.

## **Debts due to Fraud/Non-Reporting of information**

### **HACFM POLICY**

- If a family owes an amount which equals or exceeds \$5,000.00 as a result of program fraud (unreported income), the case will be referred to the Inspector General and local law enforcement. Where appropriate, the HACFM will refer the case for criminal prosecution.
- Families who owe money to the HACFM due to program fraud will be required to repay in accordance with the guidelines in the Payment Agreement Section of Chapter 18.

## **Repayment Agreement [24 CFR 792.103]**

The term *repayment agreement* refers to a formal document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### **Repayment Agreement Guidelines**

#### **Down Payment Requirement**

##### **HACFM Policy**

1. Request the family to attempt to pay in full the amount due to HACFM.
2. Request the family to pay 50% of the debt owned as a down payment and enter into a repayment agreement for the balance, or
3. If the family is unable to comply with 1 or 2, a repayment agreement may be considered as follows:
  - If the full amount is under \$300, a repayment agreement of not less than \$50 per month, but must be paid in full by the end of the current fiscal year.
  - If the full amount is over \$300, a repayment agreement for payment in the amount of one-twelfth (1/12) of the full amount per month, or
  - Repayment agreements for large retroactive changes shall be at the discretion of the Director of Housing Operations or their authorized designee.

With exception of extreme circumstances, all repayment agreements must be paid within a maximum of twelve (12) months.

## **Execution of the Agreement**

### **HACFM Policy**

- The head of household and spouse/co head (if applicable) must sign the repayment agreement.

## **Due Dates**

### HACFM Policy

- Repayment Agreements are due and payable on the 1st of each month.
- All payments are due by the close of business on the 5<sup>th</sup> day of the month. If the 5<sup>th</sup> day falls on a weekend or holiday, the HACFM will consider the next due date to be the close of the next business day after the 5<sup>th</sup>.

## **Late Payments**

### HACFM Policy

- If the family's payment agreement is in arrears, the HACFM will consider this a breach of payment and demand the balance to be paid in full or terminate assistance.

## **Non-Payment**

### HACFM Policy

- The repayment agreement will be in default when 1 payment is delinquent.
- the family to pay the balance in full and or pursue civil collection and terminate program assistance

## **No Offer of Repayment Agreement**

### HACFM Policy

HACFM will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.



## **PARTV: MANAGEMENT ASSESSMENT (SEMAP)**

### **16-V.A. OVERVIEW**

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

### **16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]**

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with program requirements.

### **HUD Verification Method**

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample

that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

### **16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]**

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

<b>SEMAP Indicators</b>
<p><b>Indicator 1: Selection from the waiting list</b>  <b>Maximum Score: 15</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.</li> <li>• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.</li> </ul>
<p><b>Indicator 2: Rent reasonableness</b>  <b>Maximum Score: 20</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units</li> <li>• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.</li> </ul>
<p><b>Indicator 3: Determination of adjusted income</b>  <b>Maximum Score: 20</b></p> <ul style="list-style-type: none"> <li>• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</li> <li>• Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.</li> </ul>
<p><b>Indicator 4: Utility allowance schedule</b>  <b>Maximum Score: 5</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.</li> </ul>

- Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

**Indicator 5: HQS quality control inspections****Maximum Score: 5**

- This indicator shows whether a PHA supervisor re-inspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control re-inspections were completed, according to the PHA's certification.

**Indicator 6: HQS enforcement****Maximum Score: 10**

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

**Indicator 7: Expanding housing opportunities****Maximum Points: 5**

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

**Indicator 8: FMR limit and payment standards****Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

**Indicator 9: Annual reexaminations****Maximum Points: 10**

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

**Indicator 10: Correct tenant rent calculations****Maximum Points: 5**

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

**Indicator 11: Pre-contract HQS inspections****Maximum Points: 5**

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

**Indicator 12: Annual HQS inspections****Maximum Points: 10**

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

**Indicator 13: Lease-up****Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA's last year-end operating statement that is recorded in HUD's accounting system.

**Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances****Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

**Success Rate of Voucher Holders****Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**Deconcentration Bonus Indicator****Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50<sup>th</sup> percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

**PART VI: RECORD KEEPING****16-VI.A. OVERVIEW**HACFM Policy

HACFM will maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records will be made available to HUD or the Comptroller General of the United States upon request.

HACFM will ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

**16-VI.B. RECORD RETENTION [24 CFR 982.158]**HACFM Policy

During the term of each assisted lease, and for at least three years thereafter, HACFM will keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and

- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

## **16-VI.C. RECORDS MANAGEMENT**

### HACFM Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACFM staff.

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

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

### **Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

### HACFM Policy

Prior to utilizing HUD's EIV system, the HACFM will adopt and implement EIV security procedures required by HUD.

## **Criminal Records**

### HACFM Policy

HACFM may only disclose the criminal conviction records received from a law enforcement agency to officers or employees of HACFM, or to authorized representatives of HACFM who have a job-related need to have access to the information [24 CFR 5.903(e)].

HACFM has establish and implements a system of records management that ensures that any criminal record received by HACFM from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to HACFM action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

HACFM implements a system of records management that ensures that any sex offender registration information received by HACFM from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

## **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file.

### HACFM Policy

HACFM will destroy the document or redact the information contained in the document referring to the medical condition and or medical treatment.

## **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

### **16-VII.A. OVERVIEW**

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

### **16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

#### HACFM Policy

The HACFM will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

### **16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

#### HACFM Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the HACFM is not providing such a report.



## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### **16-VIII.B. METHODOLOGY**

#### HACFM Policy

The HACFM will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the HACFM's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the HACFM will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the HACFM cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HACFM will be considered to have insufficient funding.

## **PART IX: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)**

### **16-IX.A. NOTIFICATION TO PARTICIPANTS [Pub.L. 109-162]**

VAWA requires PHAs to notify HCV program participants of their rights under this law, including their right to confidentiality and the limits thereof.

#### HACFM Policy

The HACFM will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the participant of HACFM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACFM will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).

## **16-IX.B. NOTIFICATION TO APPLICANTS**

### HACFM Policy

The HACFM will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of HACFM confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The HACFM will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

## **16-IX.C. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 109-162]**

VAWA requires PHAs to notify owners and managers of their rights and responsibilities under this law.

### HACFM Policy

Inform property owners and managers of their screening and termination responsibilities related to VAWA. The HACFM may utilize any or all of the following means to notify owners of their VAWA responsibilities:

As appropriate in day to day interactions with owners and managers.

Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.

Signs in the HACFM lobby and/or mass mailings which include model VAWA certification forms.

## Chapter 17

### PROJECT-BASED VOUCHERS

#### INTRODUCTION

This chapter describes HUD regulations and HACFM policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the HACFM will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the HACFM's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the HACFM and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

## **PART I: GENERAL REQUIREMENTS**

### **17-I.A. OVERVIEW [24 CFR 983.5]**

#### HACFM Policy

The HACFM will operate a project-based voucher program using up to 20 percent of its budget authority for project-based assistance.

PBV assistance may be attached to existing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the HACFMs not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the HACFM is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

### **17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the HACFM 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.

#### HACFM Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACFM policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

### **17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]**

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 will be paid with funds provided by the owner, local public funds, or funds available from other sources. HACFM may not use voucher program funds to cover relocation costs, except that HACFMs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the HACFM to ensure the owner complies with these requirements.

### **17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

The HACFM must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the HACFM must comply with the HACFM Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

## **PART II: PBV OWNER PROPOSALS**

### **17-II.A. OVERVIEW**

The HACFM must describe the procedures for owner submission of PBV proposals and for HACFM selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the HACFM must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per building [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57].

### **17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]**

The HACFM must select PBV proposals in accordance with the selection procedures in the HACFM administrative plan. The HACFM must select PBV proposals by either of the following two methods.

- HACFM request for PBV Proposals. The HACFM may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the HACFM request. The HACFM may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The HACFM may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

### **Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]**

HACFM procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the HACFM. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the HACFM request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

#### HACFM Policy

### HACFM Request for Proposals for Rehabilitated and Newly Constructed Units

The HACFM will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

- **Fort Myers News Press**
- **Spanish Newspapers (if available)**

In addition, the HACFM will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The HACFM will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the HACFM estimates that it will be able to assist under the funding the HACFM is making available. Proposals will be due in the HACFM office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the HACFM by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The HACFM will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

Owner experience and capability to build or rehabilitate housing as identified in the RFP;

Extent to which the project furthers the HACFM goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the HACFM will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

### HACFM Requests for Proposals for Existing Housing Units

The HACFM will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

- **Fort Myers News Press**
- **Spanish Newspapers (if available)**

In addition, the HACFM will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

The HACFM will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the HACFM estimates that it will be able to assist under the funding the HACFM is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

Extent to which the project furthers the HACFM goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Extent to which units are occupied by families that are eligible to participate in the PBV program.

HACFM Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The HACFM will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The HACFM may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

- **Fort Myers News Press**
- **Spanish News Papers (if available)**

In addition to, or in place of advertising, the HACFM 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. The HACFM will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the HACFM goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

### **HACFM-owned Units [24 CFR 983.51(e) and 983.59]**

A HACFM-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the HACFM-owned units were appropriately selected based on the selection procedures specified in the HACFM administrative plan. If the HACFM selects a proposal for housing that is owned or controlled by the HACFM, the HACFM must identify the entity that will review the HACFM proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of HACFM-owned units, the initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections must be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the HACFM jurisdiction (unless the HACFM is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

#### **HACFM Policy**

The HACFM may submit a proposal for project-based housing that is owned or controlled by the HACFM. If the proposal for HACFM-owned housing is selected, the HACFM will use another entity to review the HACFM selection, to perform inspections and rent reasonableness for the PBV program. The HACFM will obtain HUD approval of entity prior to selecting the proposal for HACFM-owned housing.

The HACFM may only compensate the independent entity and appraiser from HACFM ongoing administrative fee income (including amounts credited to the administrative fee reserve). The HACFM may not use other program receipts to compensate the independent entity and appraiser for their services. The HACFM, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

### **HACFM Notice of Owner Selection [24 CFR 983.51(d)]**

The HACFM must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

#### **HACFM Policy**

Within 10 business days of the HACFM making the selection, the HACFM will notify the selected owner in writing of the owner's selection for the PBV program. The HACFM will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the HACFM will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the HACFM used to solicit the proposals. The announcement will include the name of the owner that was selected



for the PBV program. The HACFM will also post the notice of owner selection on its electronic web site.yu

The HACFM will make available to any interested party its rating and ranking sheets and documents that identify the HACFM basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The HACFM will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The HACFM will make these documents available for review at the HACFM during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

### **17-II.C. HOUSING TYPE [24 CFR 983.52]**

The HACFM may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of HACFM selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The HACFM must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The HACFM choice of housing type must be reflected in its solicitation for proposals.

### **17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

#### **Ineligible Housing Types [24 CFR 983.53]**

The HACFM may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; cooperative housing; and transitional housing. In addition, the HACFM may not attach or pay PBV assistance for a unit occupied by an owner and the HACFM may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

#### ***High-rise Elevator Projects for Families with Children [24 CFR 983.53(b)]***

The HACFM may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves the HACFM determination. The HACFM may make this initial determination for its project-based voucher program, in whole or in part, and need not review each project on a case-by-case basis, and HUD may approve on the same basis.

### HACFM Policy

The HACFM will not use high-rise elevator projects for families with children.

#### **Subsidized Housing [24 CFR 983.54]**

A HACFM may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a HACFM may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the HACFM in accordance with HUD requirements.

#### **17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]**

The HACFM may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The HACFM must submit the necessary documentation to HUD for a subsidy layering review. The HACFM may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

## **17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH BUILDING**

### **25 Percent per Building Cap [24 CFR 983.56(a)]**

In general, the HACFM may not select a proposal to provide PBV assistance for units in a building or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building 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.

### **Exceptions to 25 Percent per Building Cap [24 CFR 983.56(b)]**

Exceptions are allowed and PBV units are not counted against the 25 percent per building cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in a multifamily building because they are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).

HACFMs must include in the HACFM administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A HACFM may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the HACFM administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

The HACFM must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The HACFM administrative plan must state the form and frequency of such monitoring.

#### HACFM Policy

The HACFM will provide PBV assistance for excepted units.

### **Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]**

A HACFM may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

HACFM may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. A HACFM may also determine not to provide PBV assistance for excepted units, or the HACFM may establish a per-building cap of less than 25 percent.

#### HACFM Policy:

The HACFM will provide assistance for excepted units. Beyond that, the HACFM will not impose any further cap on the number of PBV units assisted per building.

### **17-II.G. SITE SELECTION STANDARDS**

#### **Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]**

The HACFM may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the HACFM has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the HACFM Plan under 24 CFR 903 and the HACFM administrative plan.

In addition, prior to selecting a proposal, the HACFM 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).

#### HACFM Policy

It is the HACFM goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the HACFM will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the HACFM will grant exceptions to the 20 percent standard where the HACFM determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

- A census tract where new market rate units are being developed 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 HACFM 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.

#### **Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]**

The HACFM may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

#### **New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]**

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the HACFM determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

#### **17.II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]**

The HACFM activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The HACFM may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The HACFM may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the HACFM, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The HACFM must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The HACFM must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

### **PART III: DWELLING UNITS**

#### **17-III.A. OVERVIEW**

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

#### **17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]**

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

### **Lead-based Paint [24 CFR 983.101(c)]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

### **17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES**

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The HACFM must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

### **17-III.D. INSPECTING UNITS**

#### **Pre-selection Inspection [24 CFR 983.103(a)]**

The HACFM must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the HACFM must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the HACFM may not execute the HAP contract until the units fully comply with HQS.

#### **Pre-HAP Contract Inspections [24 CFR 983.103(b)]**

The HACFM must inspect each contract unit before execution of the HAP contract. The HACFM may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

#### **Turnover Inspections [24 CFR 983.103(c)]**

Before providing assistance to a new family in a contract unit, the HACFM must inspect the unit. The HACFM may not provide assistance on behalf of the family until the unit fully complies with HQS.

#### **Annual Inspections [24 CFR 983.103(d)]**

At least annually during the term of the HAP contract, the HACFM must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the HACFM must reinspect 100 percent of the contract units in the building.

#### **Other Inspections [24 CFR 983.103(e)]**

The HACFM must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The HACFM must take into account complaints and any other information coming to its attention in scheduling inspections.

The HACFM 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 HACFM supervisory quality control HQS inspections, the HACFM should include a representative sample of both tenant-based and project-based units.

#### **Inspecting HACFM-owned Units [24 CFR 983.103(f)]**

In the case of HACFM-owned units, the inspections must be performed by an independent agency designated by the HACFM and approved by HUD. The independent entity must furnish a copy of each inspection report to the HACFM and to the HUD field office where the project is located. The HACFM 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 HACFM-owner.

### **PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS**

#### **17-IV.A. OVERVIEW [24 CFR 983.151]**

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

#### **17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT**

In order to offer PBV assistance in rehabilitated or newly constructed units, the HACFM must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the HACFM agrees that upon timely completion of such development in accordance with the terms of the Agreement, the HACFM will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(b)].

#### **Content of the Agreement [24 CFR 983.152(c)]**

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;



- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the HACFM, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

#### **Execution of the Agreement [24 CFR 983.153]**

The Agreement must be executed promptly after HACFM notice of proposal selection to the selected owner. However, the HACFM may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the HACFM may not enter into the Agreement until the environmental review is completed and the HACFM has received environmental approval.

#### **HACFM Policy**

The HACFM 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 are started.

### **17-IV.C. CONDUCT OF DEVELOPMENT WORK**

#### **Labor Standards [24 CFR 983.154(b)]**

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The HACFM must monitor compliance with labor standards.

#### **Equal Opportunity [24 CFR 983.154(c)]**

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

### **Owner Disclosure [24 CFR 983.154(d) and (e)]**

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

### **17-IV.D. COMPLETION OF HOUSING**

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

#### **Evidence of Completion [24 CFR 983.155(b)]**

At a minimum, the owner must submit the following evidence of completion to the HACFM in the form and manner required by the HACFM:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the HACFM's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

#### HACFM Policy

The HACFM will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The HACFM will specify any additional documentation requirements in the Agreement to enter into HAP contract.

#### **HACFM Acceptance of Completed Units [24 CFR 983.156]**

Upon notice from the owner that the housing is completed, the HACFM must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The HACFM must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the HACFM must not enter into the HAP contract.

If the HACFM determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the HACFM must submit the HAP contract for execution by the owner and must then execute the HAP contract.

## **PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

### **17-V.A. OVERVIEW**

The HACFM must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].

### **17-V.B. HAP CONTRACT REQUIREMENTS**

#### **Contract Information [24 CFR 983.203]**

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any building that will exceed the 25 percent per building cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

#### **Execution of the HAP Contract [24 CFR 983.204]**

The HACFM may not enter into a HAP contract until each contract unit has been inspected and the HACFM has determined that the unit complies with the Housing Quality Standards (HQS). For existing housing, the HAP contract must be executed promptly after the HACFM selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the HACFM 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.

#### HACFM Policy

For existing housing, the HAP contract will be executed within 10 business days of the HACFM determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the HACFM determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

#### **Term of HAP Contract [24 CFR 983.205]**

The HACFM may enter into a HAP contract with an owner for an initial term of no less than one year and no more than ten years.

##### HACFM Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

Within one year before expiration of the HAP contract, the HACFM may extend the term of the contract for an additional term of up to five years if the HACFM determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

##### HACFM Policy

When determining whether or not to extend an expiring PBV contract, the HACFM will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;

- The condition of the contract units;

- The owner's record of compliance with obligations under the HAP contract and lease(s);

- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

- Whether the funding could be used more appropriately for tenant-based assistance.

#### ***Termination by HACFM [24 CFR 983.205(c)]***

The HAP contract must provide that the term of the HACFM's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the HACFM in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the HACFM may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

### ***Termination by Owner [24 CFR 983.205(d)]***

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the HACFM. In this case, families living in the contract units must be offered tenant-based assistance.

### **Remedies for HQS Violations [24 CFR 983.207(b)]**

The HACFM may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the HACFM determines that a contract does not comply with HQS, the HACFM 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.

#### HACFM Policy

The HACFM will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

## **17-V.C. AMENDMENTS TO THE HAP CONTRACT**

### **Substitution of Contract Units [24 CFR 983.206(a)]**

At the HACFM's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the HACFM must inspect the proposed unit and determine the reasonable rent for the unit.

### **Addition of Contract Units [24 CFR 983.206(b)]**

At the HACFM's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the HACFM's PBV program, a HAP contract may be amended during the three-year period following the execution date of the HAP contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

#### HACFM Policy

The HACFM will consider adding contract units to the HAP contract when the HACFM determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.

#### **17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206(c) and 983.302(e)]**

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

#### **17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]**

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the HACFM, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

## **17-V.F. ADDITIONAL HAP REQUIREMENTS**

### **Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]**

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the HACFM and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The HACFM may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

#### HACFM Policy

The HACFM will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HACFM will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

### **Vacancy Payments [24 CFR 983.352(b)]**

At the discretion of the HACFM, the HAP contract may provide for vacancy payments to the owner for a HACFM-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 HACFM 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).

#### HACFM Policy

The HACFM will decide on a case-by-case basis if the HACFM will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

## **PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **17-VI.A. OVERVIEW**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### **17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

The HACFM may select families for the PBV program from those who are participants in the HACFM's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the HACFM, 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 HACFM'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.

#### HACFM Policy

The HACFM will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

#### **In-Place Families [24 CFR 983.251(b)]**

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the HACFM is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the HACFM's waiting list. Once the family's continued eligibility is determined (the HACFM may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the HACFM must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

#### **17-VLC. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

The HACFM may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The HACFM may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the HACFM. If the HACFM chooses to offer a separate waiting list for PBV assistance, the HACFM must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a HACFM decides to establish a separate PBV waiting list, the HACFM may use a single waiting list for the HACFM's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

#### HACFM Policy



The HACFM will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance. The HACFM currently **has** waiting list for the following PBV projects:

**The Homes at Renaissance Preserve**

**Covington Meadows**

**Stella Apartments**

**Broadway Apartments**

**Coconut Cove 1 & 2. (maintained in one waitlist)**

#### **17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

Applicants who will occupy units with PBV assistance must be selected from the HACFM's waiting list. The HACFM may establish selection criteria or preferences for occupancy of particular PBV units. The HACFM may place families referred by the PBV owner on its PBV waiting list.

#### **Income Targeting [24 CFR 983.251(c)(6)]**

At least 75 percent of the families admitted to the HACFM's tenant-based and project-based voucher programs during the HACFM fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

#### **Units with Accessibility Features [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the HACFM must first refer families who require such features to the owner.

#### **Preferences [24 CFR 983.251(d)]**

The HACFM may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The HACFM must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

Although the HACFM is prohibited from granting preferences to persons with a specific disability, the HACFM may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled

residents may not be required to accept the particular services offered as a condition of occupancy.

If the HACFM has buildings with more than 25 percent of the units receiving project-based assistance because those buildings include “excepted units” (units specifically made available for elderly or disabled families, or families receiving supportive services), the HACFM must give preference to such families when referring families to these units [24 CFR 983.261(b)].

#### HACFM Policy

The HACFM will provide a selection preference when required by the regulation (e.g., eligible in-place families, qualifying families for “excepted units,” mobility impaired persons for accessible units). The HACFM will not offer any additional preferences for the PBV program or for particular PBV projects or units.

### **17-VI.E. OFFER OF PBV ASSISTANCE**

#### **Refusal of Offer [24 CFR 983.251(e)(3)]**

The HACFM is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant’s place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the HACFM’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

#### **Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner’s units, such rejection may not affect the family’s position on the tenant-based voucher waiting list.

#### **Acceptance of Offer [24 CFR 983.252]**

##### ***Family Briefing***

When a family accepts an offer for PBV assistance, the HACFM 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 HACFM must provide a briefing packet that explains how the HACFM 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 HACFM must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the HACFM 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 HACFM should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

## **17-VLF. OWNER SELECTION OF TENANTS**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

### **Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the HACFM from the HACFM'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 HACFM's subsidy standards.

### **Filling Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify the HACFM of any vacancy or expected vacancy in a contract unit. After receiving such notice, the HACFM must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The HACFM and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

#### HACFM Policy

The owner must notify the HACFM in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

The HACFM will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

### **Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]**

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the HACFM 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.

#### HACFM Policy

If any contract units have been vacant for 120 days, the HACFM will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The HACFM 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 the HACFM's notice.

## **17-VLG. TENANT SCREENING [24 CFR 983.255]**

### **HACFM Responsibility**

The HACFM is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the HACFM may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

#### HACFM Policy

The HACFM will not conduct screening to determine a PBV applicant family's suitability for tenancy. HACFM shall screen for program eligibility. The management must determine tenancy screening requirements.

The HACFM must provide the owner with an applicant family's current and prior address (as shown in HACFM records) and the name and address (if known by the HACFM) of the family's current landlord and any prior landlords.

In addition, the HACFM may offer the owner other information the HACFM may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The HACFM must provide applicant families a description of the HACFM policy on providing information to owners, and the HACFM must give the same types of information to all owners.

#### HACFM Policy

The HACFM 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 HACFM will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

### **Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

## **PART VII: OCCUPANCY**

### **17-VII.A. OVERVIEW**

After an applicant has been selected from the waiting list, determined eligible by the HACFM, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

### **17-VII.B. LEASE [24 CFR 983.256]**

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

#### **Form of Lease [24 CFR 983.256(b)]**

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a HACFM model lease.

The HACFM may review the owner's lease form to determine if the lease complies with state and local law. If the HACFM determines that the lease does not comply with state or local law, the HACFM may decline to approve the tenancy.

#### HACFM Policy

The HACFM will not review the owner's lease for compliance with state or local law.

#### **Lease Requirements [24 CFR 983.256(c)]**

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

### **Tenancy Addendum [24 CFR 983.256(d)]**

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the HACFM (the names of family members and any HACFM-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

### **Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)]**

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause,” or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the HACFM must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.

### **Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the HACFM a copy of all changes.

The owner must notify the HACFM 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 HACFM and in accordance with the terms of the lease relating to its amendment. The HACFM must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

### **Owner Termination of Tenancy [24 CFR 983.257]**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

### ***Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c)]***

If a family is living in a project-based unit that is excepted from the 25 percent per building cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

### ***Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]***

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HACFM policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

## **Security Deposits [24 CFR 983.258]**

The owner may collect a security deposit from the tenant. The HACFM may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

### HACFM Policy

The HACFM will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The HACFM has no liability or responsibility for payment of any amount owed by the family to the owner.

## **17-VII.C. MOVES**

### **Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]**

If the HACFM determines that a family is occupying a wrong size unit, based on the HACFM'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 HACFM must promptly notify the family and the owner of this determination, and the HACFM must offer the family the opportunity to receive continued housing assistance in another unit.

### HACFM Policy

The HACFM 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 HACFM's determination. The HACFM 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 HACFM offers the family a tenant-based voucher, the HACFM must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the HACFM).

If the HACFM 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 HACFM, or both, the HACFM must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the HACFM.



### HACFM Policy

When the HACFM 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 HACFM will terminate the housing assistance payments at the expiration of this 30-day period.

The HACFM 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 983.260]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the HACFM. If the family wishes to move with continued tenant-based assistance, the family must contact the HACFM 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 HACFM 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 HACFM 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.

### **17-VI.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]**

The HACFM may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a building unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by the HACFM. At least one member must be receiving at least one qualifying supportive service.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by the HACFM and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per building cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate

the unit within a reasonable period of time established by the HACFM, and the HACFM must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the HACFM.

#### HACFM Policy

The HACFM will not provide PBV assistance for excepted units.

### **PART VIII: DETERMINING RENT TO OWNER**

#### **17-VIII.A. OVERVIEW**

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

#### **17-VIII.B. RENT LIMITS [24 CFR 983.301]**

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the HACFM, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

#### **Certain Tax Credit Units [24 CFR 983.301(c)]**

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and

- The tax credit rent exceeds a HACFM-determined amount (not to exceed 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

### ***Definitions***

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

*Tax credit rent* is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

### **Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]**

When determining the initial rent to owner, the HACFM must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the HACFM must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the HACFM may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the HACFM may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

### **HACFM Policy**

Upon written request by the owner, the HACFM will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The HACFM will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the HACFM may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the HACFM determines it is necessary due to HACFM budgetary constraints.

## **Redetermination of Rent [24 CFR 983.302]**

The HACFM must redetermine the rent to owner upon the owner's request or when there is a five percent or greater decrease in the published FMR.

### ***Rent Increase***

If an owner wishes to request an increase in the rent to owner from the HACFM, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the HACFM. The HACFM may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

#### HACFM Policy

An owner's request for a rent increase must be submitted to the HACFM 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The HACFM may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

### ***Rent Decrease***

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment.

### ***Notice of Rent Change***

The rent to owner is redetermined by written notice by the HACFM to the owner specifying the amount of the redetermined rent. The HACFM 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.

#### HACFM Policy

The HACFM will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

## **HACFM-owned Units [24 CFR 983.301(g)]**

For HACFM-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The HACFM must use the rent to owner established by the independent entity.

## **17-VIII.C. REASONABLE RENT [24 CFR 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the HACFM.

### **When Rent Reasonable Determinations are Required**

The HACFM must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The HACFM approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the HACFM 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 HACFM. The comparability analysis may be performed by HACFM 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.

### **HACFM-owned Units**

For HACFM-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for HACFM-owned units to the HACFM and to the HUD field office where the project is located.

### **Owner Certification of Reasonable Rent**

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the HACFM may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

### **17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL**

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

#### **Other Subsidy [24 CFR 983.304]**

At its discretion, a HACFM may reduce the initial rent to owner because of other governmental subsidies, including grants and other subsidized financing.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

#### ***Combining Subsidy***

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

#### **Rent Control [24 CFR 983.305]**

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

## **PART IX: PAYMENTS TO OWNER**

### **17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]**

During the term of the HAP contract, the HACFM 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 HACFM agree on a later date.

Except for discretionary vacancy payments, the HACFM 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 HACFM is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

### **17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the HACFM determines that the vacancy is the owner's fault.

#### HACFM Policy

If the HACFM determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the HACFM will notify the landlord of the amount of housing assistance payment that the owner must repay. The HACFM will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the HACFM, the HAP contract may provide for vacancy payments to the owner. The HACFM may only make vacancy payments if:

- The owner gives the HACFM prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the HACFM to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the HACFM and must provide any information or substantiation required by the HACFM to determine the amount of any vacancy payment.

#### HACFM Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the HACFM of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the HACFM may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the HACFM within 10 business days of the HACFM's request, no vacancy payments will be made.

#### **17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the HACFM in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HACFM 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 HACFM 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 HACFM. The owner must immediately return any excess payment to the tenant.

#### **Tenant and HACFM 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 HACFM.

Likewise, the HACFM is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The HACFM is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The HACFM 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 HACFM 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 HACFM may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the HACFM chooses to pay the utility supplier directly, the HACFM must notify the family of the amount paid to the utility supplier.



### HACFM Policy

The HACFM will make utility reimbursements to the family.

## **17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]**

### **Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

### **Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

## **Chapter 18**

### **OWNER OR FAMILY DEBTS TO THE HACFM**

[24 CFR 982.552]

#### **INTRODUCTION**

This chapter describes the HACFM's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the HACFM's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the HACFM's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the HACFM, the HACFM will make every effort to collect it. The HACFM will use a variety of collection tools to recover debts including, but not limited to:

- \* Requests for lump sum payments**
- \* Civil suits**
- \* Payment agreements**
- \* Abatements**
- \* Reductions in HAP to owner**
- \* Collection agencies**
- \* Credit bureaus**
- \* Income tax set-off programs**

**A. PAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c)(v-vii)]**

**HACFM Policy**

1. Request the family to attempt to pay in full the amount due to HACFM.
2. Request the family to pay 50% of the debt owned as a down payment and enter into a repayment agreement for the balance, or
3. If the family is unable to comply with 1 or 2, a repayment agreement may be considered as follows:
  - If the full amount is under \$300, a repayment agreement of not less than \$50 per month, but must be paid in full by the end of the current fiscal year.
  - If the full amount is over \$300, a repayment agreement for payment in the amount of one-twelfth (1/12) of the full amount per month, or
  - Repayment agreements for large retroactive changes shall be at the discretion of the Director of Housing Operations or their authorized designee.

With exception of extreme circumstances, all repayment agreements must be paid within a maximum of twelve (12) months.

4. Repayment Agreements are due and payable on the 1st of each month.
5. If the family already has a payment agreement in place and incurs an additional debt to the HACFM:
  - The HACFM will not enter into more than one payment agreement with the family.

**B. DEBTS OWED TO PHA'S OR OTHER FEDERALLY ASSISTED HOUSING PROGRAMS**

[24 CFR 792.103, 982.552 (c)(v-vii)]; 24 CFR 5.233

**HACFM Policy**

It is the policy of the HACFM not to provide rental assistance to a family which owes money to this or any other Public Housing Authority. Documented proof of payment in full must be provided to HACFM within 10 days of the notification from HACFM before housing assistance will be provided. Failure to provide documented proof will result in denial of assistance.

**C. GUIDELINES FOR PAYMENT AGREEMENTS [24 CFR 982.552(c)(v-vii)]**

**HACFM Policy**

- Payment agreements will be executed between HACFM and the head of household and co-head or head of household and spouse.
- The payment agreement must be executed by the Housing Specialist, Section 8 Supervisor or Director of Housing Operations.
- Payments may only be made by money order or cashier's check.
- Repayment Agreements are due and payable on the 1st of each month.
- All payments are due by the close of business on the 5<sup>th</sup> day of the month. If the 5<sup>th</sup> day falls on a weekend or holiday, the HACFM will consider the next due date to be the close of the next business day after the 5<sup>th</sup>.
- The repayment agreement will be in default when 1 payment is delinquent.
- When a repayment agreement is in default, HACFM will require the family to pay the balance in full and or pursue civil collection and terminate program assistance.
- Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family, verification of the hardship, and the approval of the Section 8 Supervisor or higher authority.
- No move will be approved until the debt is paid in full unless the move is the result of the following causes, and the payment agreement is current:
  - \* Family size exceeds the HQS maximum occupancy standards
  - \* The HAP contract is terminated due to owner non-compliance or opt-out
  - \* A natural disaster

**Program Fraud**

**HACFM Policy**

If a family owes an amount which equals or exceeds \$5,000.00 as a result of program fraud (unreported income), the case will be referred to the Inspector General and local law enforcement. Where appropriate, the HACFM will refer the case for criminal prosecution.

Families who owe money to the HACFM due to program fraud will be required to repay in accordance with the guidelines in the Payment Agreement Section of this Chapter.

**F. OWNER DEBTS TO THE HACFM [24 CFR 982.453(b)]**

**HACFM Policy**

If the HACFM determines that the owner has retained housing assistance or claim payments the owner is not entitled to, the HACFM may reclaim the amounts from future housing assistance or claim payments owed the owner for any units under contract.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the HACFM will:

- \* Require the owner to pay the amount in full within 30 days.
- \* Enter into a payment agreement with the owner for the amount owed.
- \* Pursue collections through the local court system.
- \* Pursue collection through any other HAP Contracts in effect for other tenants.
- \* Restrict the owner from future participation.

**G. WRITING OFF DEBTS**

**HACFM Policy**

Debts will be written off if:

- \* The debtor's whereabouts are unknown and the debt is more than 5 years old or;
- \* A determination is made that the debtor is judgment proof or;
- \* The debtor is deceased or;
- \* The debtor is confined to an institution indefinitely or for more than 5 years or;
- \* The amount is less than \$500.00 and the debtor cannot be located.

**H. DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP**

**HACFM Policy**

If a minimum rent temporary hardship has been granted by HACFM, a repayment agreement will offered in accordance with the guidelines in the Payment Agreement Section of this Chapter

If the family is unable to comply with 1 or 2, a repayment agreement may be

considered as follows:

- If the full amount is under \$300, a repayment agreement of not less than \$50 per month, but must be paid in full by the end of the current fiscal year.

Reserved

## Chapter 19

### COMPLAINTS AND APPEALS

#### **INTRODUCTION**

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of HACFM. This chapter describes the policies, procedures and standards to be used when families disagree with a HACFM decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of HACFM to ensure that all families have the benefit of all protections due to them under the law.

#### **A. COMPLAINTS TO HACFM**

##### HACFM Policy

HACFM will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. HACFM **may** require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

HACFM hearing procedures will be provided to families in the briefing packet.

##### Categories of Complaints

Complaints from families: If a family disagrees with an action or inaction of HACFM or owner.

- Complaints from families will be referred to the Housing Specialist.
- If a complaint is not resolved, it will be referred to the Section 8 Supervisor.

Complaints from owners: If an owner disagrees with an action or inaction of HACFM or a family.

- Complaints from families will be referred to the Housing Specialist.
- If a complaint is not resolved, it will be referred to the Section 8 Supervisor

Complaints from staff: If a staff person reports an owner or family either violating or not complying with program rules,

- the complaint will be referred to the Section 8 Supervisor

Complaints from the general public: Complaints or referrals from persons in the community in regard to HACFM, a family or an owner.

- Complaints from the general public will be referred to the Section 8 Supervisor
- If a complaint is not resolved, it will be referred to the Housing Director.



## **20B. PREFERENCE DENIALS**

### **HACFM Policy**

\*When HACFM denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with HACFM staff to discuss the reasons for the denial and to dispute HACFM's decision.

\*The person who conducts the meeting will be:

- \* The Housing Specialist or their designee.

- \* An employee of HACFM who is at or above the level of Housing Specialist but not the employee who made the decision.

## **C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS** [24 CFR 982.54(d)(12), 982.554]

### **HACFM Policy**

Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing. When HACFM determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

The reason(s) they are ineligible,

The procedure for requesting a review if the applicant does not agree with the decision and

The time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, HACFM will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

HACFM must provide applicants with the opportunity for an informal review of decisions denying:

- Qualification for preference

- Listing on HACFM's waiting list

- Issuance of a voucher

- Participation in the program

- Assistance under portability procedures

Informal reviews are not required for established policies and procedures and HACFM determinations such as:

- Discretionary administrative determinations by HACFM

- General policy issues or class grievances

- A determination of the family unit size under HACFM subsidy standards

Refusal to extend or suspend a voucher  
A HACFM determination not to grant approval of the tenancy  
Determination that unit is not in compliance with HQS  
Determination that unit is not in accordance with HQS due to family size or composition

### **Procedure for Review**

A request for an informal review must be received **in writing** by the close of the business day, no later than **10** business days from the date of HACFM's notification of denial of assistance. The informal review will be scheduled within **30** days from the date the request is received. The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person. The review may be conducted by:

- **The Section 8 Supervisor**
- **The Housing Director**

The applicant will be given the option of presenting oral or written objections to the decision. Both HACFM and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A notice of the review findings will be provided in writing to the applicant within **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.

### **D. INFORMAL HEARING PROCEDURES** [24 CFR 982.555(a-f), 982.54(d)(13)] HACFM Policy

When HACFM makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. HACFM will give the family prompt notice of such determinations which will include:

- The proposed action or decision of HACFM;
- The date the proposed action or decision will take place;
- The family's right to an explanation of the basis for HACFM's decision.
- The procedures for requesting a hearing if the family disputes the action or decision;
- The time limit for requesting the hearing.
- When terminating assistance for criminal activity as shown by a criminal record, HACFM will provide the subject of the record and the tenant/participant with a copy of the criminal record upon which the decision to terminate was based.
- To whom the hearing request should be addressed
- A copy of HACFM's hearing procedures

HACFM must provide participants with the opportunity for an informal hearing for decisions related to any of the following HACFM determinations:

- Determination of the family's annual or adjusted income and the computation of the housing assistance payment
- Appropriate utility allowance used from schedule
- Family unit size determination under HACFM subsidy standards
- Determination to terminate assistance for any reason.
- Determination to terminate a family's FSS contract, withhold supportive services, or propose forfeiture of the family's escrow account.

HACFM must always provide the opportunity for an informal hearing before termination of assistance.

Informal hearings are not required for established policies and procedures and HACFM determinations such as:

- Discretionary administrative determinations by HACFM
- General policy issues or class grievances
- Establishment of HACFM schedule of utility allowances for families in the program
- A HACFM determination not to approve an extension or suspension of a voucher term
- A HACFM determination not to approve a unit or lease
- A HACFM determination that an assisted unit is not in compliance with HQS (HACFM must provide hearing for family breach of HQS because that is a family obligation determination)
- A HACFM determination that the unit is not in accordance with HQS because of the family size
- A HACFM determination to exercise or not exercise any right or remedy against the owner under a HAP contract

### **Notification of Hearing**

It is HACFM'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, HACFM will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When HACFM receives a request for an informal hearing, a hearing shall be scheduled within [30] days. The notification of hearing will contain:

The date and time of the hearing

The location where the hearing will be held

The family's right to bring evidence, witnesses, legal or other representation at the family's expense

The right to view any documents or evidence in the possession of HACFM upon which HACFM based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. The participant must request the documents no later than

12:00 pm on the business day prior to the scheduled hearing date.

A notice to the family that HACFM will request a copy of any documents or evidence the family will use at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

### **HACFM's Hearing Procedures**

- After a hearing date is scheduled, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.
- If the family does not appear at the scheduled time, and did not make arrangements in advance, HACFM will proceed with the termination.
- If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact HACFM within [24] hours, excluding weekends and holidays. HACFM will reschedule the hearing only if the family can show good cause for the failure to appear.
- Families have the right to:
  - Present written or oral objections to HACFM's determination.
  - Examine the documents in the file which are the basis for HACFM's action, and all documents submitted to the Hearing Officer;
  - Copy any relevant documents at their expense;
  - Present any information or witnesses pertinent to the issue of the hearing;
  - Request that HACFM staff be available or present at the hearing to answer questions pertinent to the case; and
  - Be represented by legal counsel, advocate, or other designated representative at their own expense.
- In no case will the family be allowed to remove the file from HACFM's office. The family will be allowed to copy any documents related to the hearing at a cost per the Florida Statute 119.
- In addition to other rights contained in this Chapter, HACFM has a right to:
  - Present evidence and any information pertinent to the issue of the hearing;
  - Be notified if the family intends to be represented by legal counsel, advocate, or another party;
  - Examine and copy any documents to be used by the family prior to the hearing;
  - Have its attorney present; and
  - Have staff persons and other witnesses familiar with the case present.
- The informal hearing shall be conducted by the hearing officer appointed by HACFM

who is neither the person that made or approved the decision nor a subordinate of that person. HACFM appoints hearing officers who are HACFM management from departments other than the HCV program, HACFM employees trained as hearing officers in departments other than the HCV program. HACFM also used other PHA's to serve as hearing officers as needed.

- The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.
- The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.
- If the family misses an appointment or deadline ordered by the Hearing Officer, the action of HACFM shall take effect and another hearing will not be granted.
- The Hearing Officer will determine whether the action, inaction or decision of HACFM is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.
- A notice of the hearing findings shall be provided in writing to HACFM and the family within **10 business** days and shall include:
  - A clear summary of the decision and reasons for the decision;
  - If the decision involves money owed, the amount owed
  - The date the decision goes into effect.
- HACFM is not bound by hearing decisions:
  - Which concern matters in which HACFM is not required to provide an opportunity for a hearing
  - Which conflict with or contradict to HUD regulations or requirements;
  - Which conflict with or contradict Federal, State or local laws; or
  - Which exceed the authority of the person conducting the hearing.
- HACFM shall send a letter to the participant if it determines HACFM is not bound by the Hearing Officer's determination within **[10]** days. The letter shall include HACFM's reasons for the decision.

- All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

## **E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"** [24 CFR Part 5, Subpart E]

**INSTRUCTION:** In accordance with the Quality Housing and Work Responsibility Act of 1998, HACFMs may no longer elect not to comply with ("opt-out" of) the noncitizen requirements (Part 5, Subpart E).

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while HACFM hearing is pending but assistance to an applicant may be delayed pending HACFM hearing.

### **INS Determination of Ineligibility**

#### **HACFM Policy**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, HACFM notifies the applicant or participant within ten business days of their right to appeal to the INS within thirty days or to request an informal hearing with HACFM either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give HACFM a copy of the appeal and proof of mailing or HACFM may proceed to deny or terminate. The time period to request an appeal may be extended by HACFM for good cause.

The request for a HACFM hearing must be made within 30 days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within 30 days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members HACFM will:

Deny the applicant family

Defer termination if the family is a participant and qualifies for deferral

Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, HACFM will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

#### **F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES** [24 CFR 982.204, 982.552(c)]

##### HACFM Policy

When applicants are denied placement on the waiting list, or HACFM is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

- Examples of mitigating circumstances are: a) A person with a cognitive disorder may not have understood the requirement to report increases in income, b) A person may not understand the need to make regular repayments on a promissory note, c) Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

## **Chapter 20**

### **SPECIAL HOUSING TYPES**

[24 CFR 982.601]

#### **INTRODUCTION**

The HACFM will permit the use of [any special housing types/state which housing types] in its program only if the applicant/participant can demonstrate that it is needed as a reasonable accommodation for a person with a disability. Acceptable demonstration will include documentation from one or more knowledgeable professionals who are familiar with the applicant/participant and or the type of special housing requested as accommodation.

The HACFM will not set aside any program funding for special housing types, or for a special housing type.

#### **Verification of Need for Reasonable Accommodation**

Acceptable documentation as verification of the need for reasonable accommodation would be a letter to the HACFM describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by [Section 8 Coordinator] and a written response stating approval or disapproval will be sent to the applicant/participant within [30] days of receipt of the request.

A copy of the HACFM's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.



**A. SINGLE ROOM OCCUPANCY** [24 CFR 982.602]

**HUD has determined that there [is not] a demand for SROs in this area. Therefore, a single person [may not] reside in an SRO housing unit.**

The HACFM will use a separate lease and housing assistance payment contract for each assisted person residing in a SRO. [24 CFR 982.603]

**SRO Rent and Housing Assistance Payment** [24 CFR 982.604]

**Pre-merger Regular Certificate Program**

The payment standard for SRO housing is 75 percent of the zero bedroom FMR.

**Voucher Program**

The HACFM SRO payment standard is 75 percent of the zero bedroom payment standard schedule. For a person residing in an exception area the payment standard is 75 percent of the HUD-approved zero bedroom exception payment standard amount. While an assisted person resides in SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.

**Utility Allowance**

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

**Housing Quality Standards**

The HACFM will ensure that all SRO units approved for the program are in compliance with all of the Housing Quality Standards for SROs as regulated in 24 CFR 982.605.

**B. CONGREGATE HOUSING** [24 CFR 982.606]

An elderly person or a person with disabilities may reside in a congregate housing unit.

The HACFM may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The HACFM 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.

**Congregate Housing Lease and HAP Contract** [24 CFR 982.607]

For congregate housing there will be a separate lease and HAP contract for each assisted family.

Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the HACFM payment standard schedule.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard amount.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

**Housing Quality Standards**

The HACFM will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

### **C. GROUP HOMES** [24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

An elderly person or a person with disabilities may reside in a State-approved group home. If approved by the HACFM, a live-in aide may reside with a person with disabilities.

The HACFM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities.

The HACFM will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

#### **Group Home Lease and HAP Contract** [24 CFR 982.611]

There will be a separate HAP contract and lease for each assisted person living in a group home. For a group home the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any HACFM-approved live-in Aide.

#### **Group Home Rent and HAP Contract** [24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.

The reasonable rent for a group home is determined in accordance with 982.503. In determining reasonable rent the HACFM will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

### **Maximum Subsidy**

Unless there is a live-in aide, the family unit size is **[one bedroom]**. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size; or the pro-rata portion of the payment standard amount on the HACFM payment standard schedule for the group home size.

### **Utility Allowance**

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

### **Housing Quality Standards**

The HACFM will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

## **D. SHARED HOUSING** [24 CFR 982.615]

### **Occupancy**

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

The HACFM may approve a live-in aide to reside with a family in order to care for a person with a disability. The HACFM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit.

A resident owner may enter into a HAP contract with the HACFM. However, housing assistance may not be paid on behalf of an owner. The HACFM will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

### **Rent and HAP Contract**

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.

The rent to owner to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

### **Maximum Subsidy**

For a family that resides in a shared housing unit the payment standard is the lower of the payment standard amount on the HACFM payment standard schedule for the family unit size or the pro-rata portion of the payment standard amount on the HACFM payment standard for the shared housing unit size.

If the HACFM approves a live-in aide, the live-in aide will be counted in determining the family unit size.

### **Utility Allowance**

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

### **Housing Quality Standards**

The HACFM will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards for shared housing as regulated in 24 CFR 982.618.

## **E. COOPERATIVE HOUSING** [24 CFR 982.619]

The HACFM will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low-income families. The HACFM will not approve assistance for a family in cooperative housing until the HACFM has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).

The reasonable rent in cooperative housing is determined in accordance with "Owner Rents, Rent Reasonableness, and Payment Standards" chapter. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperative's debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down-payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge as determined in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owner. The housing assistance payment will be determined in accordance with the guidelines in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The HACFM may approve a live-in aide to reside with the family to care for a person with disabilities. The HACFM 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. If the HACFM approves a live-in aide, the live-in aide will be counted when determining the family unit size.

### **Housing Quality Standards**

The HACFM will ensure that all cooperative housing units approved for the program are in compliance with all of the Housing Quality Standards outlined in the "Housing Quality Standards and Inspections" chapter and regulated by 24 CFR 982.401.

## **F. MANUFACTURED HOMES** [24 CFR 982.620]

The HACFM will permit a family to lease a manufactured home and space with assistance under the program. The HACFM **[will]** provide assistance for a family that owns the manufactured home and leases only the space.

The HACFM may approve a live-in aide to reside with a family to care for a person with disabilities. The HACFM will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the HACFM approves a live-in aide, the live-in aide must be counted when determining the family unit size.

### **Housing Quality Standards** [24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" chapter and regulated by 24 CFR 982.401. In addition, the manufactured home also must meet the following requirements:

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage.

A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

*[INSTRUCTION: The rest of this section only applies when the HACFM agrees to provide assistance to families who own the manufactured home but need to lease space.]*

### **Manufactured Home Space Rental** [24 CFR 982.622]

Rent to owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space.

Rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.



## **Reasonable Rent**

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the HACFM.

The HACFM will not approve a lease for a manufactured home space until the HACFM has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the HACFM will redetermine that the rent is reasonable.

The HACFM will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The HACFM will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.

By accepting each monthly housing assistance payment from the HACFM, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park or elsewhere. If requested by the HACFM, the owner must provide the HACFM information on rents for other manufactured home space.

## **Housing Assistance Payments for Manufactured Home Space** [24 CFR 982.623]

The FMR for a manufactured home space will be determined by HUD.

### **HAP for the Regular Tenancy Program**

For the Regular Tenancy Program the initial rent to owner for leasing a manufactured home space may not exceed the published FMR for a manufactured home space.

During the term of a certificate tenancy, entered prior to the merger date, the amount of the monthly housing assistance payment equals the lesser of:

The manufactured home space cost minus the:

The Total Tenant Payment; OR

The rent to owner for the manufactured home space.

"Manufactured home space cost" means the sum of: the amortization cost, the utility allowance, and the rent to owner for the manufactured home space.

The amortization cost may include debt service to amortize costs (other than furniture costs) included in the purchase price of the manufactured home. The debt service includes the payment for principal and interest on the loan. The debt service amount will be reduced by 15 percent to exclude debt service to amortize the cost of furniture, unless the HACFM determines that furniture was not included in the purchase price.

Any debt service due to refinancing the manufactured home after purchase of the home is not included in the amortization costs.

The HACFM **will not** approve as part of the monthly amortization payment, set-up charges to be included in the debt service incurred by a family that relocates its home.

The HACFM **will not** include as part of the monthly amortization payment, set-up charges incurred before the family became an assisted family, if monthly payments are still being made to amortize such charges.

### **HAP for the Voucher Tenancy**

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40 percent of the published FMR for a two-bedroom unit.

### **Subsidy Calculation for the Voucher Program**

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of:

The payment standard minus the total tenant payment; or

The rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the HACFM:

Rent to owner for the manufactured home space;

Owner maintenance and management charges for the space;

The utility allowance for tenant paid utilities.

**Utility Allowance Schedule for Manufactured Home Space Rental** [24 CFR 982.624]

The HACFM will establish utility allowances for manufactured home space rental. For the first twelve months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

**G. HOMEOWNERSHIP** [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family.

The HACFM must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

The HACFM may make homeownership available to all who qualify, or restrict homeownership to families or purposes defined by the HACFM. The HACFM may also limit the number of families assisted with homeownership.

\*The HACFM will offer the homeownership option to all applicant and participant families who meet the eligibility requirements listed below.

\*The HACFM will offer the homeownership option only to participating families who:

- \*Are currently enrolled in the Family Self-Sufficiency (FSS) Program and in compliance with the FSS contract.

- \*Are graduates of the HACFM's Family Self-Sufficiency FSS program.

- \*Complete the Home Buyers Education Program

- \*Contain at least 1 adult family member who has been fully employed for at least 2 years

## **Eligibility Requirements** [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance.

The family must be eligible for the Housing Choice Voucher program.

The family must qualify as a first-time homeowner or may be a co-operative member.

The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. Unless the family is elderly or disabled, income from welfare assistance will not be counted toward this requirement.

The family must meet the Federal minimum employment requirement.

At least one adult family member who will own the home must be currently employed full time and must have been continuously employed for one year prior to homeownership assistance.

HUD regulations define Afull time employment@ as not less than an average of 30 hours per week.

\*A family member will be considered to have been continuously employed even if that family member has experienced a break in employment, provided that the break in employment:

\*did not exceed [30 calendar days]; and

\*did not occur within the [3 month] period immediately prior to the family's request to utilize the homeownership option; and

\*has been the only break in employment within the past 12 calendar months.

The Federal minimum employment requirement does not apply to elderly or disabled families.

Any family member who has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future homeownership assistance.

\*The HACFM will impose the following additional initial requirements:

\*The family has had no family-caused violations of HUD's Housing Quality standards within the last [1 year period].

\*The family is not within the initial 1-year period of a HAP Contract.

\*The family does not owe money to the HACFM.

\*The family has not committed any serious or repeated violations of a HACFM-assisted lease within the past [1 year/specify time period].

\*[List additional HACFM requirements]

### **Homeownership Counseling Requirements** [24 CFR 982.630]

When the family has been determined eligible, they must attend and complete homeownership counseling sessions. These counseling sessions will be conducted by [HACFM staff/ specify HUD-approved housing counseling agency/ specify other entity]. Such counseling shall be consistent with HUD-approved housing counseling.

The following topics will be included in the homeownership counseling sessions:

\*Home maintenance (including care of the grounds);

\*Budgeting and money management;

\*Credit counseling;

\*How to negotiate the purchase price of a home;

\*How to obtain homeownership financing and loan preapprovals, including a description of types of financing that may be available, and the pros and cons of different types of financing;

\*How to find a home, including information about homeownership opportunities, schools, and transportation in the HACFM jurisdiction;

\*Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;

\*Information about RESPA, state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions;

**Eligible Units** [24 CFR 982.628]

The unit must meet all of the following requirements:

The unit must meet HUD's

Eligible Housing requirements. The unit may not be any of the following:

A public housing or Indian housing unit;

A unit receiving Section 8 project-based assistance;

A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;

A college or other school dormitory;

On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.

The unit was already existing or under construction at the time the family was determined eligible for homeownership assistance.

The unit is a one-unit property or a single dwelling unit in a cooperative or condominium.

The unit has been inspected by the HACFM and by an independent inspector designated by the family.

The unit meets HUD Housing Quality Standards.

The HACFM must not approve the seller of the unit if the HACFM has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

### **HACFM Search and Purchase Requirements** [24 CFR 982.629]

The HACFM has established the maximum time that will be allowed for a family to locate and purchase a home.

The family's deadline date for locating a home to purchase will be [number of calendar days/months] from the date the family's eligibility for the homeownership option is determined.

The family must obtain financing for the home within [number of calendar/working days/ number of months] of [the date eligibility for the homeownership program is determined/ locating a home to purchase].

The family must purchase the home within [number of calendar/working days/ number of months] of [the date eligibility for the homeownership program is determined/ locating a home to purchase].

The HACFM [will/will not] require periodic reports on the family's progress in finding and purchasing a home. \*Such reports will be provided by the family at intervals of [number of days/months].

If the family is unable to purchase a home within the maximum time limit, the HACFM [will issue the family a voucher to lease a unit/ will place the family's name on the waiting list for a voucher].

### **Inspection and Contract** [24 CFR 982.631]

The unit must meet Housing Quality Standards and must also be inspected by an independent professional inspector selected and paid by the family.

The independent inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components. These systems and components include, but are not limited to:

Foundation and structure;

Housing interior and exterior;

Roofing;

Plumbing, electrical and heating systems.



The independent inspector must not be a HACFM employee or contractor. The HACFM will not require the family to use an independent inspector selected by the HACFM, but the HACFM has established the following standards for qualification of inspectors selected by the family.

**\*The HACFM requires the following qualifications for independent inspectors:** [list qualifications]

Copies of the independent inspection report will be provided to the family and the HACFM. Based on the information in this report, the family and the HACFM will determine whether any pre-purchase repairs are necessary.

The HACFM may disapprove the unit for homeownership assistance because of information in the report.

The family must enter into a contract of sale with the seller of the unit. A copy of the contract must be given to the HACFM. The contract of sale must specify the price and terms of sale and provide that the purchaser will arrange for a pre-purchase independent inspection of the home. The contract must also:

Provide that the purchaser is not obligated to buy the unit unless the inspection is satisfactory;

Provide that the purchaser is not obligated to pay for necessary repairs; and

Contain the seller's certification that he or she has not been debarred, suspended or subject to a limited denial of participation.

### **Financing** [24 CFR 982.632]

The family is responsible for securing financing. The HACFM has established financing requirements, listed below, and may disapprove proposed financing if the HACFM determines that the debt is unaffordable.

\* The HACFM will prohibit the following forms of financing:

- \*balloon payment mortgages

- \* variable interest rate loans

- \* seller financing

- \* seller financing on a case-by-case basis

\*The HACFM will require a minimum cash down payment of 3 percent of purchase price] of which 1 percent must be paid from the family's own resources.

\*The HACFM will impose a minimum initial equity requirement.

**Continued Assistance** [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. The family or lender is not required to refund homeownership assistance for the month when the family moves out.

The family must comply with the following obligations:

The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.

The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to CFR 982.551 (h) and (i).

The family must supply information to the HACFM, or HUD as specified in CFR 982.551(b). The family must further supply any information required by the HACFM or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.

The family must notify the HACFM before moving out of the home.

The family must notify the HACFM if the family defaults on the mortgage used to purchase the home.

No family member may have any ownership interest in any other residential property.

**\*The family must attend and complete ongoing homeownership counseling.**

**\*The home must pass a HUD Housing Quality Standards inspection** [yearly/specify other time period].

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

### **Maximum Term of Homeownership Assistance** [24 CFR 982.634]

Except in the case of elderly or disabled families, the maximum term of homeownership assistance is:

15 years, if the initial mortgage term is 20 years or longer, or

10 years in all other cases.

The elderly exception only applies if the family qualified as elderly at the start of homeownership assistance. The disabled exception applies if, at any time during receipt of homeownership assistance, the family qualifies as disabled.

If the family ceases to qualify as elderly or disabled during the course of homeownership assistance, the maximum term becomes applicable from the date assistance commenced. However, such a family must be afforded at least 6 months of homeownership assistance after the maximum term becomes applicable.

If the family receives homeownership assistance for different homes, or from different HACFMs, the total is subject to the maximum term limitations.

### **Homeownership Assistance Payments and Homeownership Expenses** [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the HACFM will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in this plan for the Housing Choice Voucher program.

The HACFM will pay the homeownership assistance payment [directly to the family/to a lender on behalf of the family/to the family or to the lender at the discretion of the HACFM].

Some homeownership expenses are allowances or standards determined by the HACFM in accordance with HUD regulations. These allowances are used in determining expenses for all homeownership families and are not based on the condition of the home.

Homeownership expenses include:

Principal and interest on mortgage debt.

Mortgage insurance premium.

Taxes **and insurance.**

The HACFM utility allowance used for the voucher program.

The HACFM allowance for routine maintenance costs [**amount/reference to attachment**].

The HACFM allowance for major repairs and replacements [**amount/reference to attachment**].

Principal and interest on debt for improvements.

**\*If the home is a cooperative or condominium, expenses also include operating expenses or maintenance fees assessed by the homeowner association.**

**Portability** [24 CFR 982.636, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and in Chapter 13 of this plan, the family may exercise portability if the receiving HACFM is administering a voucher homeownership program and accepting new homeownership families.

The receiving HACFM may absorb the family into its voucher program or bill the initial HACFM. The receiving HACFM arranges for housing counseling and the receiving HACFM=s homeownership policies apply.

**Moving With Continued Assistance** [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

\*The HACFM prohibits more than one move by the family during any one year period.

\*The HACFM will deny permission to move with continued rental or homeownership assistance if the HACFM determines that it does not have sufficient funding to provide continued assistance.

\*The HACFM will require the family to complete additional homeownership counseling prior to moving to a new unit with continued assistance under the homeownership option.

**Denial or Termination of Assistance** [24 CFR 982.638]

Termination of homeownership assistance is governed by the policies for the Housing Choice Voucher program contained in chapter 15 of the Administrative Plan. However, the provisions of CFR 982.551 (c) through (j) are not applicable to homeownership.

The HACFM will terminate homeownership assistance if the family is dispossessed from the home due to a judgment or order of foreclosure.

\*The HACFM will permit such a family to move with continued voucher rental assistance. However, rental assistance will be denied if the family defaulted on an FHA-insured mortgage, and the family fails to demonstrate that:

The family has conveyed, or will convey, title to the home as required by HUD,  
and

The family has moved, or will move, within the period required by HUD.

\*The HACFM will not permit such a family to move with voucher rental assistance.

\*The HACFM will terminate homeownership assistance if the family violates any of the family obligations contained in this section.

\*The HACFM will terminate homeownership assistance if the family violates any of the following family obligations:

\*Transfer or conveyance of ownership of the home;

\*Providing requested information to the HACFM or HUD;

\*Notifying the HACFM before moving out of the home;

### **Pilot Program for Homeownership Assistance for Disabled Families** [CFR 982.642]

The HACFM has the option of offering assistance under the pilot program instead of, or in addition to, the homeownership assistance described in this section. Most of the regulations governing homeownership assistance apply to the pilot program.

Eligibility: the family must meet the definition of "disabled family." The family is not required to meet the low-income requirement, but annual income cannot exceed 99% of the area median. The family must not be a current homeowner and must close on the home within 3 years of July 23, 2001. The family need not meet the definition of "first-time homeowner."

Homeownership Assistance Payments: Payments are calculated as described in this section. A low-income family receives the full assistance payment. A family whose annual income is between 81% and 89% of area median receives 66% of the assistance payment. A family whose annual income is between 90% and 99% of area median receives 33% of the assistance payment. The HACFM must make payments to the lender.

Mortgage Defaults: The HACFM may permit the family to move with continued homeownership assistance if the default is due to catastrophic medical reasons or to the impact of a federally declared disaster.

**\*The HACFM [will/will not] offer homeownership assistance under the pilot program for disabled families.**

To the extent applicable, the HACFM's policies for homeownership assistance apply to families participating in the pilot program.

### **Recapture of Homeownership Assistance** [24 CFR 982.640]

The HACFM will comply with CFR 982.640 in recapturing a percentage of the homeownership assistance provided to the family upon sale or refinancing of the home.

Upon purchase of the home, the family shall execute documentation securing the HACFM's right to recapture homeownership assistance.

## **CHAPTER 21**

### **COST SAVING OPTIONS**

In recent years the management of the Housing Choice Voucher (HCV) Program has become more difficult for the Housing Authority of the City of Fort Myers (HACFM) and all other housing authorities managing the HCV program. As Congress and HUD change the way they fund the program, more and more challenges face the HACFM.

There are no simple solutions to the challenges the HACFM faces and the actions we must take will vary depending on circumstances that are often beyond our control. Therefore, HACFM hereby establishes in its Administrative Plan the following options that will be considered by the Board of Commissioners depending on the particular circumstances of the time. They are not listed in any particular order.

1. None of these options will be implemented without Board of Commissioner approval and the opportunity for affected participants to address the Board of Commissioners.
2. Any actions taken under this section of the Administrative Plan will terminate if and when the procuring reason for the action is no longer in effect.
3. Rescissions will also require Board of Commissioner approval.
4. Notwithstanding anything in this Section, the adoption of policies noted herein to deny portability or moves within the jurisdiction or revision of payment or subsidy standards, reasonable accommodation requests for a person's disability must still be evaluated in accordance with HUD's Section 504 implementing regulations at 24 CFR part 8.
5. Such requests will be granted when an accommodation is necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, unless it would impose an undue financial and administrative burden on HACFM or fundamentally alter the nature of our operations.

There shall be one basic principle that will guide HACFM in implementing any or all of the options listed below:

- What must HACFM do to assist the maximum number of eligible people in a quality HCV Program while maintaining the fiscal integrity of the program and impacting a participant's rent burden as little as possible?

HACFM shall endeavor to protect elderly and disabled families from significant impact (defined as loss of one's Housing Choice Voucher) but recognizes that what is feasible is dependent on the amount of funding provided to the program.

The options are as follows:

- A. The HCV Payment Standards may be reviewed in light of the funding situation. If payment standards are reduced, the lower payment standard shall go into effect immediately for new admissions, participants moving from one unit to another,



and people staying in place who require a new HAP contract because they are signing a new lease. In **extraordinary** circumstances, the HACM may be forced to ask HUD for a waiver so that even those participants staying in place without a new lease shall have their payment standard decreased immediately instead of the normal second regular reexamination after the lowering of the payment standard.

HCV Payment Standards must be established according to HUD regulation so that no more than 40% of the participants are paying more than 30% of their monthly adjusted income for rent. If circumstances dictate it, the HACFM may be forced to ask for a waiver of this prohibition in order to sufficiently lower its payment standard.

- B. Since Housing Authorities do not have to wait until the HAP contract anniversary date to review owner rents and reduce them if warranted, the HACFM will ensure that owner rents do not exceed amounts charged for unassisted units in the same building or complex. The initial rent and all rent increases must comply with any State or local rent control limits. Further, any owner **leasing promotions** for unassisted tenants (e.g., the initial two months of occupancy are "rent free") must be taken into consideration in determining rent reasonableness.

In accordance with the HAP contract, the HACFM will provide written notice to owners before reducing unreasonable rents. Rents may be reduced as early as the first of the following month. If the rent to owner is not reasonable as most recently determined by the HACFM, the owner must reduce the rent to the reasonable amount or the HAP contract must be terminated. In such cases, the family will be issued a HCV to find a new unit. (Movers, like new participants, are subject to the HACFM's current payment and occupancy standards.)

- C. The utility allowance schedule may be reviewed to determine if the utility allowances are too high. If they are too high that means that the participants are being subsidized in an excess manner. The new utility allowance schedule may be placed into after a thirty day notice or at a participant's next reexamination depending on the financial circumstances the HACFM finds itself in.

As stated in Chapter 16, utility allowances are supposed to be adjusted annually or sooner if there is a utility rate decrease or increase of 10% or more. If circumstances warrant, the HACFM reserves the right to seek a HUD waiver of this regulatory requirement.

- D. An initial PHA may request that a receiving PHA absorb portable families for which the initial PHA is being billed. This may include the receiving PHA retroactively absorbing families for which the initial PHA was already billed and made payments. In these cases, the receiving PHA reimburses the initial PHA for payments made back to the effective date of the absorption. Both the receiving PHA and initial PHAs must agree to this arrangement. This provision provides an

exception to section 10 of Notice PIH 2008-43 on HCV Portability and Corrective Actions. (Section 10 provides that the receiving PHA may not retroactively absorb families for which the receiving PHA was previously billing for any time period that commences before 10 working days from the time the receiving PHA notifies the initial PHA of the absorption.) The HACFM will attempt to get receiving PHAs to absorb whenever possible.

- E. If financial circumstances dictate, the HACFM may deny discretionary portability moves to a higher cost area inside or outside its jurisdiction for its HCV participants and/or shoppers if the HACFM has insufficient funds to pay the higher subsidy amounts and the receiving housing authority declines to absorb the family. While the Board of Commissioners must establish this policy after an examination of the fiscal affairs of the organization, individual denials of portability shall only occur after the HACFM has determined that the receiving housing authority will not absorb the family. The denial of absorption shall be documented in that person's file.

This can only occur if the portability action would cause the HACFM to be unable to avoid terminating the vouchers of current voucher participants during the affected calendar year. If a family is denied its portability request, no subsequent families will be admitted to the program until the HACFM has determined that sufficient funding exists to approve the move and has notified the family that the family may now exercise its move to the higher cost area.

- F. If financial circumstances dictate, the HACFM may deny the right of a participant to move within the jurisdiction of the HACFM to a portion of the jurisdiction that has a higher payment standard than the portion of the jurisdiction the participant currently lives in if the HACFM has insufficient funds to pay the higher subsidy amounts.
- G. Housing Choice Vouchers issued to families on the waiting list that have not resulted in HAP contracts may be cancelled.
- H. The HACFM may be forced to not reissue vouchers surrendered by current participants immediately upon their return to the Housing Authority. Instead, the vouchers may be held in the Authority's inventory in order to avoid dire financial consequences. The amount of time they will be held shall be determined based upon the financial situation of the Housing Authority.
- I. The subsidy standards set forth in Chapter 5 may be reexamined. The size of the unit the Housing Choice Voucher is issued for may need to be reduced. For example, you may use the zero bedroom payment standards for households with only one person.

- J. A program wide study may be conducted to ensure that families are utilizing the proper size Housing Choice Voucher for their current family size. HACFM may require over-housed participants to locate a unit appropriate to their voucher size.
- K. If the minimum rent is increased under Chapter 6, it can be made the first of the month following the month families are notified of the increase (provided there has been at least a 30-day notice) instead of at the next reexamination.
- L. The requirement of when families have to report changes of their income as set forth in Section 14.2 may be modified due to the financial pressure facing the HACFM. Also, the new rent payment may become effective at the start of the next month provided there has been a thirty day notice.
- M. Owners participating in the HCV Program may be asked to voluntarily reduce the rents they are charging participants in order to assist in the financial solvency of the program. This must be a truly voluntary program.
- N. The absolute last step the HACFM will take to resolve its HCV financial problems will be to terminate the vouchers of families already receiving assistance after notifying the HUD Field Office and its Financial Analyst at the Financial Management Center. If this becomes necessary, the following sequence shall be used to determine which individual HCV are terminated first.
  - 1. Tenants with unreported income that currently owe HACFM at the time of implementing this cost saving measure; and
  - 2. HACFM will run a Criminal Background check on all participants and those who have obtained felony record will be removed from the HCV program; and
  - 3. Tenants who have been assisted the longest will be removed first.

If it becomes necessary for the HACFM to terminate Housing Choice Vouchers, the families terminated shall be reinstated onto the program as soon as fiscally and practically feasible. The following readmission sequence shall be utilized.

- 1. The tenants that were removed due to their length of time being assisted will be reinstated in the order that they were removed; and
- 2. Tenants that were removed for not reporting income in a timely manner will be reinstated if they have paid the HACFM in full for any debts owed to this agency.

## CHAPTER 22

### ENTERPRISE INCOME VERIFICATION

#### EIV PRIVACY POLICY

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We are dedicated to protecting the privacy of personal information that was used to determine eligibility for rental assistance based on HUD regulations, including Social Security, other governmental identification numbers and any other required information. We have adopted a privacy policy to help ensure that information is kept secure.

Technical safeguards: **Only HUD or HUD's agents and authorized staff have access rights to information based on their role in the company. These roles are monitored on a regular basis through inspections and reviews.**

The Federal Privacy Act (5 USC 552a, as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. The EIV data of an adult household member may not be shared (or a copy provide or displayed) with another adult household member or to a person assisting the tenant with the recertification process, unless the individual has provided written consent to disclose such information.

**Authorization procedures for staff will:**

1. Reduce the risk of a security violation related to the EIV system's software, network, or applications
2. Identify and authenticate all users seeking to use the EIV system data
3. Deter and detect attempts to access the system without authorization
4. Monitor the user activity on the EIV system

**Administrative Safeguards:** Staff is trained based on federal and state laws regarding privacy. Written policies and procedures include but are not limited to making sure that the HUD required 9886 and consents are updated and in place. File audits completed internally as well as HUD reviews help to ensure compliance with these policies. These administrative procedures will:

1. Ensure that access rights, roles, and responsibilities are appropriately and adequately assigned
2. Protect copies of sensitive data and destroy system-related records to prevent reconstruction of the contents
3. Ensure authorized release of tenant information consent form is included in all family files, before accessing and using data
4. Maintain, communicate, and enforce policies related to securing EIV data
5. Train staff on security measures and awareness, preventing the unauthorized accessibility and use of data

**Physical Safeguards:** HACFM will document all persons who have access to resident data or who have permission to enter areas where resident data is stored. Such persons are required to review and acknowledge the Privacy Act Requirements and must agree to comply with these requirements.

Staff is required to notify Coordinators/Security Administrators of system breaches and penetration by unauthorized users. There are written policies which include all personal information to be kept in a locked file cabinet, certain printer/fax/electronic equipment designated to receive confidential information and system security to prevent security breaches. These physical safeguards will:

1. Establish barriers between unauthorized persons and documents or computer media containing private data.
2. Clearly identify restricted areas by use of prominently posted signs or other indicators.
3. Develop a list of authorized users who can access restricted areas-e.g., contractors, maintenance, and janitorial/cleaning staff.
4. Prevent undetected entry into protected areas and/or documents with posted signage that reads "authorized personnel only".

**Disposal of Information:** In accordance with the FTC "Disposal of Consumer Report Information and Record", any applicant or resident files that are destroyed based on the Records and Retention Policy will be disposed properly. A "proper" disposal of this information is one that is reasonable and appropriate to prevent any unauthorized access to personal information such as the items listed above. Approved disposal methods include:

- Burn, pulverize, or shred papers containing consumer report information so that the information cannot be read or reconstructed;
- Destroy or erase electronic files or media containing consumer report information so that the information cannot be read or reconstructed;
- Conduct due diligence and hire a document destruction contractor to dispose of material specifically identified as consumer report information consistent with the Rule.

Keeping applicant and resident information confidential is one of our most important responsibilities. We maintain physical, electronic and procedural safeguards to protect information. We are bound by a code of ethics that requires confidential treatment of eligibility information and are subject to disciplinary action if this code is not followed.

### **EIV Use Policy:**

Use of EIV Reports reduces the overall burden of verification of income claimed by residents. EIV Income Reports can be used as 3<sup>rd</sup>-party electronic verification as prescribed by HUD. These reports are to be used for applicable HUD programs only as described in this policy and the EIV Security Policy. Under no circumstances will EIV be used as a tool to verify or monitor compliance for other programs such as Tax Credits (Section 42) or Rural Development (515).

Use of EIV for Income and Discrepancy Reporting is part of the RHIIP Initiative to reduce errors in assistance calculations and payments. Introduction of this new tool compels HACFM to develop policies to ensure consistent action when discrepancies are reported. The following written policies and procedures will ensure that residents are treated in a fair and consistent

manner. New documents have been created to facilitate use of EIV consistent with HUD requirements.

EIV reports will be produced and reviewed by staff responsible for:

- HUD eligibility determination
- HUD discrepancy analysis
- HUD compliance monitoring
- HUD compliance training

Reports will be produced, secured and maintained in accordance with the property's EIV Security Policy.

When information in EIV indicates potential errors in the eligibility determination or assistance calculation, documentation of the investigations of such errors will be maintained in:

- The EIV Master File
  - Monthly Review of Identity Verification Reports (required)
    - Failed Pre-Screening Report
    - Failed Verification Report
  - ☒ Quarterly (minimum required) review of New Hires Report or ☐ Monthly review of New Hires Report
  - ☒ Quarterly (minimum required) of Multiple Subsidy Report or ☐ Monthly review of Multiple Subsidy Report
  - ☒ Quarterly (minimum required) review of Deceased Tenant Report or ☐ Monthly review of Deceased Tenant Report
- The resident/applicant file
- ☐ The EIV Discrepancy Log

EIV Discrepancy Logs are used to record response to unresolved EIV discrepancies throughout the year. Since all EIV errors are not the result of errors in PIC or resident non-compliance, it is helpful to maintain a record of response to errors in one place. EIV Discrepancy Logs will be maintained for each year. The EIV Discrepancy Log is divided into 3 categories:

1. Existing Resident Discrepancies (From the Existing Resident Report)
2. Failed Verification/Deceased Resident Discrepancies
3. Income/Employment Discrepancies

Information tracked in the EIV Discrepancy Log includes:

- HOH Name
- Unit Number
- Name of Member with Discrepancy
- Brief Description of Discrepancy
- Date Notice Sent
- Date Meeting Scheduled
- Resolution
- Close Date

- Miscellaneous Notes

More detailed information is maintained in the applicant/resident file.

#### Initial Implementation of EIV

☒ EIV has been provided as a way to identify errors in income reporting and assistance calculations. Because information provided in EIV was previously unavailable, HACFM will review and, if necessary, investigate information for **all** households upon initial implementation of EIV. This review will be completed ***within 90 days*** of initial implementation of EIV.

Existing residents and applicants will be notified of the implementation of EIV through notices which will include HUD's EIV and You pamphlet.

Identity and income discrepancies will be discussed with residents. If appropriate, new certifications will be generated and "assistance paid in error" will be returned to HUD in compliance subsequent HUD communications.

If HACFM discovers that any resident has violated the lease or HUD regulations, appropriate action will be taken up to and including termination of assistance and/or tenancy and pursuit of fraud.

The EIV New Hires Report, Deceased Tenant Report and Multiple Occupancy Reports will be reviewed on a ☒ quarterly or ☐ semi monthly or ☐ monthly basis in accordance with HUD requirements.

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#### Report Reviewed During the Final Eligibility Review

Currently, there is only one EIV report available that provides information about *applicants*. This is the Existing Tenant Report. HACFM uses this report during the final eligibility interview. Information about how this report is used during the screening process is also described in the current resident selection plan.

#### Existing Tenant Report

All applicants **MUST** disclose if they are currently receiving HUD housing assistance. **The HACFM** will not knowingly assist applicants who will maintain a residence in addition to the HUD-assisted unit. HUD provides **the HACFM** with information about an applicant's current status as a HUD housing assistance recipient. **The HACFM** will use the Existing Tenant Report, ☐ **at application** or ☒ **during the final eligibility review**, to determine if the applicant or any member of the applicant household may be receiving HUD assistance. Copies of the report will be maintained in the applicant/resident file in accordance with HUD's recordkeeping requirements.

Since the applicant is required to provide current landlord information on the application, **HACFM** should be aware of the housing assistance. Nothing prohibits a HUD housing assistance recipient from applying to this property. However, the applicant must move out of the

current property and/or forfeit any HUD voucher before HUD assistance on this property will begin. Special consideration applies to:

- Minor children where both parents share 50% custody
- Applicants who are part of a “split” household

The report gives the HACFM the ability to coordinate move-out and move-in dates with the resident and the PHA or HACFM of the property at the other location. **The HACFM will follow-up with the respective PHA or HACFM to confirm the individual’s program participation status before admission.** ☒ **In addition, applicants will be notified that assistance will not be provided in the new unit until the day after assistance stops in the residence identified in EIV. (See MI Notice of Penalty of Attempt to Receive Assistance in Multiple Units)**

If the applicant or any member of the applicant household fails to fully and accurately disclose receipt of HUD assistance or rental history on the application, the applicant will be denied based on “misrepresentation” of information.

If **HACFM** discovers a discrepancy between the information on the application and the information provided by EIV, the applicant will be notified and will have ☒ 14days to respond to the inquiry.

#### **The EIV Master File – Compliance Reporting**

Certain EIV reports must be produced and reviewed on a regular basis.

#### **Failed EIV Pre-Screening and Failed Verification Reports**

**Failed Pre-Screening Reports** indicate that SSA information provided on HUD Form 50058 failed some level of edit. This report **MUST** be reviewed on a monthly basis and discrepancies will be addressed. This report will be produced and reviewed ☐ **each month or** ☒ **during the first 10 days of the month corresponding with the PIC file transmission.**

**Failed Verification Reports** identify household members who failed the SSA identity match due to invalid personal identifiers. This report will be produced and reviewed ☐ **each month or** ☒ **during the first 10 days of the month corresponding with the PIC file transmission.**

- Incorrect Social Security Number and/or
- Date of birth and/or
- Incorrect last name

Usually, failed verification reports are returned when there are data entry errors. However, other factors can create errors. The method for addressing information on both reports are the same and is described below:

#### **Addressing Data Entry Errors – Failed Pre-Screening or Failed Verification**



**The HACFM** will review the resident file to determine if a simple data entry error caused this discrepancy. If **the HACFM** discovers a data entry error, the corresponding 50058 must be corrected within 30 days. This corrected certification must be signed by all adult household members, as specified by HUD, and the new, corrected, signed 50058 must be transmitted to the Contract Administrator and/or HUD.

#### **Meeting with the Resident – Failed Pre-Screening or Failed Verification**

If the reason for the discrepancy cannot be identified after a simple file review, **the HACFM** will contact the affected resident and notify him/her that the Social Security Number, date of birth and/or last name are producing discrepancies. The resident will have ☐ **5 business days** or ☒ **10 calendar days** or ☐ **30 calendar days** to respond to the notice. Failure to respond will result in termination of assistance and/or tenancy as appropriate. **(See Notice of Failed SSA Verification)**

During the meeting, **HACFM** will discuss the discrepancy with the resident. In some cases, **HACFM** may request additional verification of the information provided. **The HACFM** has the right to determine the veracity of the verification documents provided.

#### **Addressing Valid Discrepancies – Failed Pre-Screening or Failed Verification**

If the information provided by the resident was inaccurate, **HACFM** will issue a notice of “material lease violation” and begin the process to re-evaluate eligibility and potentially terminate tenancy as appropriate. Unintentional errors that do not cause preferential treatment will not be used as a basis to terminate tenancy.

Effective January 31, 2010, providing a valid Social Security Number for all household members is required. If the HACFM discovers that the Social Security Number provided was incorrect, HACFM is required to attempt to recover subsidy paid in error. In these cases, the owner agent will:

- Create/correct appropriate certifications and
- Request all “assistance paid in error” is returned to HUD in one lump sum or
- Require that all “assistance paid in error” is returned to HUD as scheduled in an executed re-payment agreement

If the resident is deemed ineligible, refuses to sign the verification documents or attempts to refuse to return assistance paid in error, **HACFM** will take appropriate action up to and including termination of tenancy and pursuit of fraud.

#### **Invalid Data in EIV – Failed Pre-Screening or Failed Verification:**

If the resident claims that the information provided by EIV is inaccurate, the resident must sign appropriate verification release forms and assist **HACFM** in efforts to obtain verification of the information provided. **The HACFM** will encourage the resident to contact the Social Security Administration to correct any inaccurate data in their databases.

In these cases, the **Pre-Screening Report or Failed Verification Report** will be printed and the HACFM will note when the discrepancy was reviewed and verification documents support the

information submitted on the resident's 50058 certification. The HACFM will also describe contact with the resident and document efforts to communicate that he/she should attempt to resolve the discrepancy with the Social Security Administration.

There are certain cases where household members are exempt from disclosing and providing verification of a SSN:

- Tenants who were 62 years of age or older as of January 31, 2010 and whose initial determination of eligibility was begun before January 31, 2010; and
- Individuals who do not contend eligible immigration status

In these cases, the **Pre-Screening Report or Failed Verification Report** will be printed and the HACFM will note when the discrepancy was reviewed and that the resident is exempt from the SSN disclosure requirement.

### Recordkeeping – Failed Pre-Screening or Failed Verification

Copies of the Failed Pre-Screening Report and Failed Verification Reports will be maintained in the "Failed Identity" Section of the property's EIV Master File. These files will be purged ☐ **after three years in accordance with the properties data purge/destruction policies.** or ☒ **in accordance with HACFM data purge/destruction policies.**

Since Social Security identification discrepancies can impact program eligibility, **HACFM** will maintain detailed information about discrepancy investigation and resolution. This information will be maintained in the resident file with the "Move-in" information so that the explanation is not inadvertently archived when files are purged.

### **Deceased Tenant Report**

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This report identifies residents who are currently reflected in PIC as existing/active residents and who have been identified by SSA as deceased. This report will be produced and reviewed ☐ **each quarter (minimum required)** or ☐ **each month** or ☒ **during the first 10 days of the month corresponding with the PIC file transmission.**

### Addressing Data Entry Errors – Deceased Tenant

**The HACFM** will review the resident file to determine if a simple data entry error caused this discrepancy. If **HACFM** discovers a data entry error, the corresponding 50058 must be corrected within 30 days. This corrected certification must be signed by all adult household members, as specified by HUD, and the new, corrected, signed 50058 must be transmitted to the Contract Administrator and/or HUD.

### Meeting with the Resident – Deceased Tenant

If the reason for the discrepancy cannot be identified after a simple file review, **HACFM** will contact the affected resident and notify him/her that the Social Security Number, date of birth

and/or last name are producing discrepancies. The resident will have ☐ **5 days** or ☒ **10 calendar days** or ☐ **30 calendar days** to respond to the notice. **The HACFM** will confirm with the head-of-household, next of kin or emergency contact person to find out if the resident has passed away.

### **Invalid Data in EIV – Deceased Tenant**

If **HACFM** verifies that the resident is not deceased, **HACFM** will note the file and encourage the resident to contact the SSA to get the discrepancy resolved. In some cases, **HACFM** may opt to waive minimum rent if financial assistance is temporarily terminated.

If the Deceased Tenant Report provides information for a resident who has moved out, the HACFM will note, on the report, that the move-out certification or Interim Certification has been submitted to PIC.

### **Addressing Valid Discrepancies – Deceased Tenant**

If the resident is deceased and the household consists of multiple members, **HACFM** will confirm the date of death in writing, create an interim 50058 to update the household composition and re-calculate assistance. **The HACFM** will refer to HUD instruction provided in appropriate HUD Notices when working with the resident and creating the interim certification.

If the household failed to report as required by the lease, **HACFM** will issue a notice of “material lease violation” and begin the process to re-evaluate eligibility and potentially terminate tenancy. Any assistance paid in error must be returned to HUD.

In the case where the deceased resident is the sole member of a household, **HACFM** will process a move out HUD-50058.

### **Recordkeeping – Deceased Tenant**

Copies of the Deceased Tenant Reports will be maintained in the “Deceased Tenant” Section of the property’s EIV Master File. These files will be purged ☐ **after three years in accordance with the properties data purge/destruction policies.** or ☒ **in accordance with the Housing Authority if the City of Fort Myers data purge/destruction policies.**

Since Social Security identification discrepancies can impact program eligibility, **HACFM** will maintain detailed information about discrepancy investigation and resolution. This information will be maintained in the resident file with the “Move-in” information so that the explanation is not inadvertently archived when files are purged.

### **New Hires Report**

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This report provides employment information for residents who may have started new jobs. The information in this report is updated weekly. Since most employers report information on new hires to their state within 30 days of the hire date, an HACFM may know within 60 days whether a resident has started a new job. **To ensure timely rent adjustments, this report will be**

produced and reviewed ☐ each quarter (minimum required) or ☐ each month or ☒ each month during the first 10 days of the month corresponding with the PIC file transmission.

The HACFM will not deny, suspend, or reduce any benefits of a resident until HUD or the owner has taken appropriate steps to independently verify information relating to:

1. The amount of the wages, other earnings or income, or unemployment compensation involved;
2. Whether such resident actually has (or had) access to such wages, other earnings or income, or benefits for his or her own use; and
3. The period (or periods) when, or with respect to which, the resident actually received such wages, other earnings or income, or benefits.
- 4.

#### **Investigating the Household Situation – New Hires**

The first thing HACFM will do when there is undisclosed new employment is investigate the resident's requirement to report. The following resident reporting requirements are in place:

- An adult member of the household who was reported as unemployed on the most recent certification or recertification obtains employment; or
- The household income cumulatively increases by \$200 or more per month
- There is a change in household composition
- 

#### **No Requirement to Report – New Hires**

If the household member identified in EIV's New Hires Report was previously employed, HACFM will not contact the resident. Residents must be given the benefit of the doubt. Residents have no requirement to report a new job if the household cumulative income increases by less than \$200 per month (\$2400 per year) or if the household income decreases.

In these cases, the printout will be maintained in the property's Master EIV file and the resident file and discussed with the resident during the next certification interview.

#### **Resident Failure to Report as Required – New Hires**

If a resident fails to report as required, the household will be provided with a notice. The household will be required to meet with the HACFM or face termination.

During the meeting, the resident will be asked if the information in EIV is accurate. The resident will be required to sign appropriate verification release forms so that the hire date and income information can be verified with the employer. If necessary, an interim certification will be created. The resident will be required to return to HUD any assistance paid in error. In these cases, the owner agent will:

- Provide Notice of Material Lease Violation
- Request all "assistance paid in error" is returned to HUD in one lump sum
- Require that all "assistance paid in error" is returned to HUD

If the resident refuses to sign the verification documents or attempts to refuse to return assistance paid in error, **HACFM** will take appropriate action up to and including termination of assistance and/or tenancy and pursuit of fraud.

In addition, the resident will be provided with notice of material lease violation. Action will be taken based on **HACFM's** policy and procedure regarding material lease violation.

### **Invalid Data in EIV – New Hires**

If the resident claims that the information is invalid, the resident must sign appropriate verification release forms. **The HACFM** will contact the employer listed in EIV to verify the information provided by the resident. There may be cases where attempts to verify the EIV data is unsuccessful. In these cases, the resident must certify that the employer and employment information displayed in EIV is invalid and has been wrongly attributed to his or her personal identifiers (SSN, Last Name, and DOB).

The resident will be advised to contact the third-party income source(s), to have that employer remove the invalid income information from his or her records. The resident will be asked to provide proof that the resident has contacted the employer in EIV.

### **There can be several valid causes for errors that would preclude any action:**

1. Human error
2. System Error (SSA/SSI/EIV/HHS)
3. Identity Theft - If there is suspicion of identity theft, the resident will be advised to contact the Department of Justice and begin the process of reporting suspected identity theft.
- 4.

### **Recordkeeping – New Hires**

Copies of the New Hires Reports will be maintained in the “New Hires” Section of the property’s EIV Master File. These files will be purged ☐ **after three years in accordance with the properties data purge/destruction policies.** or ☒ **in accordance with HACFM data purge/destruction policies.**

Since failure to report changes in employment can impact the assistance calculation, **HACFM** will maintain detailed information about discrepancy investigation and resolution. In the case of “New Hires” discrepancies, this information will be maintained in the resident file with the “Annual Certification” information.

### **Multiple Subsidy Report**

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The Multiple Subsidy Report **will be produced and reviewed** ☐ **each quarter (minimum required) or** ☐ **each month or** ☒ **each month during the first 10 days of the month corresponding with the PIC file transmission.** If any household member received or attempted to receive assistance in another HUD assisted unit while receiving assistance on this property, the household member will be required to reimburse HUD for assistance paid in error.

This is considered a material lease violation and may result in penalties up to and including eviction and pursuit of fraud charges.

### Resident Non-compliance – Multiple Subsidy

There are situations where a dual assistance is allowed. A minor may reside in two different HUD assisted units if two parents live in separate units and share 50% custody of the minor.

When households “split” (one household member remains in a unit and other household members move to a new unit), there may be a required notification period that prevents the HACFM from removing a resident until the notice has been executed.

If a resident appears on the Multiple Subsidy Report and the resident appears to be violating HUD’s rules regarding dual subsidy or multiple residences, the household will be sent an appropriate notice. The resident will have ☐ **5 days** or ☒ **10 days** or ☐ **30 days** to respond to the notice. The household will be required to meet with the HACFM or face termination and/or eviction as appropriate.

During the meeting, the resident will be asked to confirm, in writing, whether the information in EIV is accurate. The resident should sign appropriate verification release forms so that the HACFM can contact the other landlord and, if necessary, determine the extent of the violation. The HACFM will determine appropriate action including termination of assistance, termination of tenancy, requirement to return assistance paid in error to HUD and pursuit of fraud after verification is complete.

If the resident refuses to sign the verification documents or attempts to refuse to return assistance paid in error, the HACFM will take appropriate action up to and including termination of assistance and/or tenancy and pursuit of fraud.

In addition, the resident will be provided with notice of material lease violation. Action will be taken based on the HACFM’s policy and procedure regarding material lease violation.

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### Invalid Data in EIV – Multiple Subsidy

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If the resident claims that the information is invalid, the resident must sign appropriate verification release forms. The HACFM will contact the landlord listed in EIV to verify the information provided by the resident. There may be cases where attempts to verify the EIV data is unsuccessful. In these cases, the resident will be asked to provide documentation to support residency claims. If the property listed in EIV is a former residence, the resident may be asked to provide documentation of move-out if that information is not already included in the resident file.

In lieu of third party verification or review of documents, the HACFM will advise the resident that he/she must certify that the residence information displayed in EIV is invalid and has been wrongly attributed to his or her personal identifiers (SSN, Last Name, and DOB).

The resident will be advised to contact the landlord indicated in EIV ☒ and if unsuccessful, contact the local Contract Administrator or local HUD office to have that landlord or agency remove the invalid income information from his or her records. The resident will be asked to provide copies of correspondence with the landlord indicated in EIV.

**There can be several valid causes for errors that would preclude any action:**

1. Human error
2. System Error
3. Identity Theft - If there is suspicion of identity theft, the resident will be advised to contact the Department of Justice and begin the process of reporting suspected identify theft.

**Recordkeeping – Multiple Subsidy**

Copies of the Multiple Subsidy Reports will be maintained in the “Multiple Subsidy” Section of the property’s EIV Master File. These files will be purged ☐ **after three years in accordance with the properties data purge/destruction policies.** or ☒ **in accordance with HACFM data purge/destruction policies.**

The HACFM will maintain detailed information about discrepancy investigation and resolution in the resident file. In the case of “Multiple subsidy” discrepancies, this information will be maintained in the resident file with the “Annual Certification” information.

**Reporting at Move-in/Initial, Annual Certification, Interim Certification**

Aside from the reports previously mentioned, EIV income reports will be reviewed for each resident household during the annual certification process. The reports reviewed during certification include:

- The Income Report
- The New Hires Report
- The No Income Report (If the resident claims zero income)
- The Income Discrepancy Report

To improve the HACFM’s ability to identify potential errors, reports will be produced and reviewed based on the following schedule.

<b>Annual Certification Month</b>	<b>Discrepancy and Income Report Viewed for Annual Certification</b>
<b>January</b>	<b>March (within 90 days of MI) and October (90 days before AR effective date)</b>
<b>February</b>	<b>April (within 90 days of MI) and November (90 days before AR effective date)</b>
<b>March</b>	<b>May (within 90 days of MI) and December (90</b>

	<b>days before AR effective date)</b>
<b>April</b>	<b>June (within 90 days of MI) and January (90 days before AR effective date)</b>
<b>May</b>	<b>July (within 90 days of MI) and February (90 days before AR effective date)</b>
<b>June</b>	<b>August (within 90 days of MI) and March (90 days before AR effective date)</b>
<b>July</b>	<b>September (within 90 days of MI) and April (90 days before AR effective date)</b>
<b>August</b>	<b>October (within 90 days of MI) and May (90 days before AR effective date)</b>
<b>September</b>	<b>November (within 90 days of MI) and June (90 days before AR effective date)</b>
<b>October</b>	<b>December (within 90 days of MI) and July (90 days before AR effective date)</b>
<b>November</b>	<b>January (within 90 days of MI) and August (90 days before AR effective date)</b>
<b>December</b>	<b>February (within 90 days of MI) and September (90 days before AR effective date)</b>

**In addition, income reports will be reviewed by the HACFM at:**

- Initial Certification – if available the owner agent will review income information provided by EIV when preparing the household’s certification
- Interim Certification - when appropriate, the owner agent will review income information provided by EIV when preparing the household’s certification

## **Income Report**

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The income report will be used to verify certain income/employment information as specified in this document. This report will be used as the preferred electronic 3<sup>rd</sup> party verification resource for this purpose per HUD’s instruction.

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## **Income Summary Information**

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EIV provides a Summary of Household Information based on the current, active certification in the PIC file at the time of the income match. This report will be reviewed at recertification.

- To validate a tenant’s SSN
- To review and resolve discrepant or invalid personal identifiers of tenants with a “failed” or “deceased” status

The report provides Identity Verification Status by identifying tenants whose personal identifiers:

- Match the SSA database - “Verified”



- Does not match the SSA database – “Failed”
- Have not been sent by HUD to SSA for validation or have not yet been matched by SSA for validation – “Not Verified”
- SSA’s records indicate the person is deceased – “Deceased”

If the Summary Report in the resident file shows an Identity Verification Status of “Verified” for all household members required to have a SSN, HACFM will not print out the Summary Report at subsequent recertification unless there is a change in household composition or in a household member’s identity verification status.

## **Social Security Benefits**

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The SSA match process begins at the beginning of each month with all of the data being loaded into EIV by the second week of the month. EIV retains the last eight actions processed by SSA for a resident. Social Security information provided by EIV includes:

- SSA
- SSI
- Dual Entitlement
- Medicare Part B Premium
- Disability Onset
- 

### **Using the EIV Printout as 3<sup>rd</sup> Party Verification of Social Security Income**

If the social security benefit information in EIV agrees with the amount that the resident reports, **HACFM** will use the EIV printout as electronic 3<sup>rd</sup>-party verification of Social Security income and Medicare Part B expenses. No additional verification is required. This information will be printed and maintained in the resident file for the term of tenancy plus 3 years after tenancy ends.

### **Including the Medicare Part B Deduction in the Assistance Calculation**

If the resident agrees, the Medicare Part B premium will be used, as part of the medical expense deduction only when an “N” is indicated in the “Buy-in” column. When the Medicare premium is being paid by the state or another entity, there will be a “Y” in the Buy-in column with a corresponding “Buy-in Date”. In these cases, the Medicare Part B amount will not be used to calculate the medical expense.

### **Incorporating the Cost of Living Adjustment (COLA) Increase**

☒ The HACFM will begin using the COLA increase starting with ☒ January or ☐ February or ☐ March or ☐ April certifications. Since the income increase is not included in EIV, the owner agent will use:

- The EIV Income Report that agrees with the information disclosed by the resident. The HACFM will calculate the COLA increase
- A current Award Letter that includes the COLA increase

- An Award Letter that is not more than 120 days old that does not include the COLA increase. The HACFM will calculate the COLA increase and attach the SSA notification of COLA for the coming year.

### Addressing Unexplained Social Security Deductions

While the SSA provides information on Medicare premiums, it does not provide information on additional deductions such as Medicare Part D (prescription drugs) premiums, repayment agreement information or garnishments.

If there is an unexplained difference between the gross benefit and the net payment, **HACFM** will ask the resident to disclose any deductions they may have from their SSA benefits and, when necessary, will request that the resident obtain a current Award Letter from SSA to verify these amounts. For example, if the resident is paying his/her Medicare premium and the difference between the gross and net SS benefit exceeds the amount of the Medicare premium, **HACFM** will:

- Discuss this with the resident
- Determine the reason for the difference and
- If applicable, obtain additional third party verification to support any of the deductions that may affect the resident's income or allowable expenses

According to HUD instruction, it is up to the HACFM to determine whether additional verification is necessary. In consideration of this, the HACFM will only require additional verification if the unexplained difference can affect the assistance calculation. (See Unexplained SS Deduction Questionnaire).

### **Obtaining Alternative/Additional Verification of Social Security Income**

If the information in EIV does not agree with the amount that the resident reports he/she receives or when the resident disputes the EIV data, HACFM must request that the resident obtain a current Award Letter from SSA. Information from the current Award Letter will be used as third party verification and for determining the resident's income and medical expense deduction, if applicable.

If there is no information in EIV reported for the resident, **HACFM** must request that the resident obtain a current Award Letter from SSA. Information from the current Award Letter will be used as third party verification and for determining the resident's income and medical expense deduction, if applicable.

Residents who need to request a current Award Letter may contact SSA by calling 1-800-772-1213 (TTY 1-800-325-0778) or by requesting it over the internet at:  
<https://secure.ssa.gov/apps6z/issn/main.html>.

Social Security Administration (SSA) Form 7004 form may be used by HACFMs to request a resident's Social Security Earnings Statement. The statement provides a record of the resident's Social Security earnings history, year-by-year, and provides an estimate of benefit payments that the resident and the resident's household may qualify for now or in the future. The resident may

have the benefits statement mailed directly to the O/A to satisfy the independent third party verification requirement.

See <http://www.ssa.gov/mystatement> for more information.

If HACFM finds it necessary to use some other alternative form of verification, e.g., oral verification, it may be necessary to use more than one document for verification. See Appendix 3, Acceptable Forms of Verification. In addition, if the HACFM uses a benefit letter, or some other form of verification provided by the resident, the HACFM will document the file and explain why third part verification was not used.

### **NDNH - Wage and Unemployment Compensation**

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For existing residents, EIV provides wage and unemployment benefit data contained in the National Directory of Multiple subsidy (NDNH) maintained by HHS. EIV retains NDNH employment and income data for a resident for two years.

EIV identifies all adult household members and provides wage and unemployment benefits for all active adults who:

- Are at least 18 years of age
- Pass the SSA/EIV verification

#### **Employment & Employment Income Verification**

The NDNH Wage information can be used to verify a resident's employment. If information provided by the resident matches the employment information on the Income Report, this is considered 3<sup>rd</sup>-party electronic verification of employment.

HACFM understands that the EIV System does not provide "real-time" information. There is a delay between the time income is earned and the time income is reflected in EIV.

#### **Wage Data for**

#### **Approximate availability date**

Q1 Jan/Feb/Mar	Aug 15
Q2 Apr/May/Jun	Nov 15
Q3 Jul/Aug/Sept	Feb 15
Q4 Oct/Nov/Dec	May 15

#### **Unemployment Data for**

#### **Approximate availability date**

Q1 Jan/Feb/Mar	Aug 15
Q2 Apr/May/Jun	Nov 15
Q3 Jul/Aug/Sept	Feb 15
Q4 Oct/Nov/Dec	May 15

Because of this, the NDNH income information in EIV is **not** to be used to determine the resident's projected income. The HACFM will obtain additional, more current, verification documentation from the resident (e.g., pay stubs, unemployment benefit information, etc.) in

accordance with HUD Handbook (for example, the most recent, concurrent 4 to 8 pay stubs – see verification of income and employment income). The HACFM will use the documentation provided by the resident to calculate income.

Example:

EIV shows that the resident is working at Jack's Restaurant and the resident has reported he/she works at Jack's Restaurant. The resident has brought in his/her four most current, consecutive check stubs.

The HACFM will use the Income Report in EIV as third party verification that the resident is employed at Jack's Restaurant and use the check stubs provided by the resident for determining the resident's income.

Check stubs – gross pay 1) \$120; 2) \$145; 3) \$125; 4) \$130

$\$120 + \$145 + \$125 + \$130 = \$520$

$\$520 / 4 = \$130$  average

$\$130 \times 52 = \$6,760$  gross annual income

**3<sup>rd</sup> Party Verification of Unemployment, Employment, Employment Income**  
HACFM will verify employment and employment income in accordance with HUD Handbook 4350.3 Revision 1, Paragraph 5 and Appendix 3 when:

- No/incomplete employment or income information is available in EIV and the resident reports he/she is working
- Information in EIV is inconsistent with information provided by the resident as described above

There may also be times when HACFM's need to request third-party verification directly from the employer in order to have all of the information needed to determine income. For example, employers are not required to report the "Hire Date" when submitting their data to the state; therefore, HACFM may need to obtain third party verification for new employment to obtain this information.

### **Unemployment Income**

Since Unemployment income is generally reported in EIV after the benefit has stopped, EIV Unemployment income will not be used to project income for the next 12 months. However, this information will be compared to the previous 50059(s) to monitor resident reporting compliance.

### **Recordkeeping – Income Reports – Employment/Income Verification**

Income reports used for verification will be printed and maintained in the resident file in accordance with EIV Recordkeeping Requirements. Reports obtained through EIV will be retained in the resident files for the term of tenancy plus three years.

### **Residents Claiming Zero Income**

When a resident claims no income, the HACFM will view EIV information ☒ more frequently or ☐ every 90 days. At the time the claim is made, the HACFM will review the No Income Report in EIV to see if the resident receives employment, unemployment insurance or Social Security Income. ☐ Additional verification sources, including State Work Line numbers will be used as well.

A resident claiming zero income (except those with a known Hardship Exemption) will be required to report to the HACFM ☒ more frequently or ☐ every 90 days in order to participate in an income review. The income reports provided in EIV (Income, Income Discrepancy and No Income) will be used to monitor resident compliance and accuracy of reporting.

Documentation of the quarterly interview, including printouts of the four income reports, will be included in the resident file and maintained in accordance with these policies, the EIV Security Policy and HUD's recordkeeping requirements.

### **EIV Discrepancy Reporting**

By regulation, resident income information must be reviewed and verified on, at least, an annual basis.

Reviewing Income Discrepancy reports on at least an annual basis provides HACFM with information necessary to monitor and, if necessary, re-calculate rent and assistance. The reports help monitor compliance by providing information about residents who may have failed to Report (Income Report):

- Social Security benefits
- Past or current employment and employment income
- Unemployment benefits

### **Income Discrepancy Report**

Income Discrepancy Reports will be printed at the same time that Income Detail Reports are printed. Both reports will be reviewed after certification (as indicated) and before certification (as indicate). HACFMs are required to review and, if necessary, resolve any discrepancies in income reported on the Income Discrepancy Report. HACFM will follow the guidance in HUD Occupancy Guidebook and subsequent HUD Notices.

HACFM will compare the SS, SSI, wage and unemployment compensation information reported on the HUD-50058 and, if applicable, third party verifications, with the employment and income information reported in EIV to determine whether or not there is a valid discrepancy.

HACFM will not suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a federal benefit program against an individual, or take other adverse action against such individual, as a result of information produced by the EIV system without meeting with the resident and properly verifying the information and notifying the resident in writing of any adverse findings in the same manner as applies to other information and findings related to eligibility factors.

HACFM will obtain independent verification of disputed EIV data such as that provided by SSA and HHS' NDNH, in accordance with 24 CFR 5.236. If a resident fails to report as required, the household will be provided with a notice, in accordance with HUD Handbook 4350.3 Revision 1. (See Sample Notice of Potential Failure to Report Employment or Income).

**Effective Dates Changes in Household Rent/Assistance for Interim  
Certifications Initiated as a Result of Income Discrepancy Investigation**

☒ According to this HACFM House Rules (attachment to the lease) residents are responsible for reporting income changes within ☐ 30 days or ☐ 2 weeks or ☒ 10 days or ☐ 7 days of the change.

In accordance with HACFM ACOP policy; if the resident complies with the interim reporting requirements, rent changes must be implemented as follows:

1. Rent increases. If the resident's rent increases because of an interim adjustment, HACFM will give the resident 30 days advance notice of the increase. The effective date of the increase will be the first of the month after the end of the 30-day period.
2. Rent decreases. If the resident's rent will decrease, the change in rent is effective on the first day of the month after the date of action that caused the interim certification. A 30-day notice is not required for rent decreases.

If the resident does not comply with the interim reporting requirements and HACFM discovers the resident has failed to report changes the PHA will create an interim recertification and will implement rent changes as follows:

1. Rent increases. Owners must implement any resulting rent increase retroactive to the first of the month following the date that the action occurred.
2. Rent decreases. Any resulting rent decrease must be implemented effective the first rent period following completion of the recertification

With the use of the employment and income information from the Enterprise Income Verification System, HACFM may discover that some residents have not disclosed all of their income information and, in many instances, the non-disclosure of income goes back for a number of years. When resolving income discrepancies, including non-reporting of income by residents, in accordance with RHIIP List Serv #122, HACFM will limit investigation of unreported income to income received by the resident within the last five (5) years (assuming that the resident has received assistance at this property for those five years).

In some cases, reduction of income is not reported even though income projected is higher than income actually received. This usually occurs when a household member's income fluctuates and income calculations were performed when the HACFM and the resident agreed on a non-standard method to project income. In these cases, if the HACFM discovers that the household income, as reflected on the 50058 is actually lower, and the resident has complied with all HUD

and HACFM reporting requirements, then the HACFM will re-calculate the 50058 and refund any overpayment of rent. The resident will decide if the refund should be returned to the resident or should be applied as a rent credit.

### **Investigating Income Discrepancies**

HACFM will review income discrepancies and compare the information in EIV with information included in the resident file. Because EIV information is historical and resident income calculations are generally “projected” the file may already include documentation that explains the discrepancy.

#### **Example 1 of Discrepancy that Requires No Action Because of Previously Known Circumstance**

In 2010, the Davis household reports income of \$23000 per year  
In 2011, Ms. Davis becomes unemployed, reducing the household income by \$12000  
The HACFM verifies termination of employment  
The HACFM completes an interim certification reducing income  
EIV compares the projected income to historical income and indicates a \$12000 difference  
This Discrepancy is explained in the resident file and no additional action is required

#### **Example 2 of Discrepancy that Requires No Action Because of Previously Known Circumstance**

In 2011, the Stephens household reports income for Brad Stephens of \$5000  
Brad is a full time student so only \$480 is included on the 50059  
EIV returns an income discrepancy of \$4520  
This Discrepancy is explained in the resident file and no additional action is required

### **Addressing Data Entry Errors**

HACFM will review the resident file to determine if a simple data entry error caused this discrepancy. If HACFM discovers a data entry error, the corresponding 50058 must be corrected within 30 days and the new, corrected, signed 5005 must be transmitted HUD / PIC. In these cases, data entry errors may affect the assistance paid. The correction will generate an increase or decrease in the assistance and the rent.

If the correction generates a rent increase/assistance decrease, HACFM will correct the certification and any subsequent certifications using the original certification effective date. HACFM will provide a 30 day notice of rent increase to the household and the household rent will increase the first of the month after the 30 day notice expires.

#### **Example**

- HACFM creates and Annual Certification effective 10/1/2011
- New rent is effective 10/1/2011
- Discrepancy analysis completed in April indicates that income was entered as 2460 instead of 4860
- AR is corrected

- Resident signs corrected AR
- 30-day notice of rent increase is provided to the resident on 4/15. New rent is effective 6/1
- Subsidy paid in error is \$60.00 per month (\$480).
- This will be reflected as a voucher adjustment on the voucher

If the correction generates a rent decrease/assistance increase, HACFM will correct the certification and any subsequent certifications using the original certification effective date. HACFM will notify the resident of the rent change and make that change retroactive to the effective date of the certification. The rent credit will be returned to the resident. The resident can choose if they want the entire rent credit in one lump sum or if the credit should be applied to future rent.

#### Example

- HACFM creates and Annual Certification effective 5/1/2011
- New rent is effective 5/1/2011
- Discrepancy analysis completed in November indicates that income was entered as 4860 instead of 2460
- AR is corrected
- Notice of rent decrease is sent to the resident on 11/15. New rent is effective 5/1 (retroactive)
- Resident overpaid rent from 5/1 through 11/1 (\$60 per month)
- Resident decides if they want the rent refunded in one lump sum or if the “credit” should be applied to future rent
- The subsidy will increase for this resident effective 5/1
- This will be reflected as a voucher adjustment on the voucher

#### **Addressing Income Discrepancies**

If review of the Income Discrepancy Report and review of the supporting Income Report indicate that the resident has failed to disclose new income or decreases/increases in income as required, the HACFM will send a notice to the household. The resident will have 10 days to participate in a meeting with the HACFM to discuss the discrepancy. Failure to respond to the notice will result in termination of assistance and/or residency the first of the month following the 10 day notice.

During the meeting, the resident will be asked if the information in EIV is accurate. If the information is accurate, the resident must sign appropriate verification release that will enable HACFM to determine if assistance was paid in error.

Based on the information verified, an interim certification will be created. The resident will be required to return to HUD any “assistance paid in error”. The resident may return any “assistance paid in error”:

- In one lump sum
- In compliance with an executed re-payment agreement



If the resident refuses to sign the verification documents or attempts to refuse to return “assistance paid in error”, HACFM will take appropriate action up to and including termination of assistance and/or tenancy and pursuing fraud.

The following are steps HACFM will take to resolve valid income discrepancies:

- Notify and discuss any discrepancy with the resident.
- Request current documents from the resident *Resolving Income Discrepancies between Resident-Provided and Enterprise Income Verification (EIV) System Income Data, dated May 2008*.
- Request verification for any income source that the resident disputes
- Confirm effective dates of unreported income
- Provide the resident the right to contest the findings
- Create an interim certification to adjust the rent.
- Return overpayment of rent to the resident as described in this policy or
- Determine the amount of “assistance paid in error” (in cases where HACFM confirms that the resident failed to report income)
- If necessary, execute a repayment agreement when the resident is unable to pay the amount due in full.
- 

#### **Invalid Data in EIV – Income Discrepancy**

If the resident claims that the information provided in EIV is invalid, the resident must sign appropriate verification release forms. HACFM will contact the employer listed in EIV to confirm the information provided by the resident.

#### **There can be several valid causes for errors that would preclude any action:**

1. Human error
2. System Error (SSA/SSI/EIV/HHS)
3. Identity Theft - If there is suspicion of identity theft, the resident will be advised to contact the Department of Justice and begin the process of reporting suspected identity theft.

If the resident refuses to sign the verification documents, HACFM will take appropriate action up to and including termination of assistance and/or tenancy.

#### **Recordkeeping – Income Discrepancy**

Since income discrepancies can impact program eligibility and assistance, HACFM will maintain detailed information about discrepancy investigation and resolution. This information will be maintained in the resident file with the certification information.

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# EIV SECURITY POLICY

## Introduction

The purpose of this policy is to provide instruction and information to staff, auditors, consultants, contractors and applicants and residents for the acceptable use, disposition and storage of data obtained through EIV (Enterprise Income Verification System). This policy has been developed to ensure that EIV data is secure. This policy has been communicated to all persons with access to EIV or EIV data. This policy has been developed to ensure compliance with HUD's security protocol regarding the three safeguard categories:

1. Technical
2. Administrative
3. Physical

Property management staff for HACFM will have the responsibility of ensuring compliance with the security policies and procedures outlined in this document. These responsibilities include:

- Maintaining and enforcing the security procedures
- Keeping records and monitoring security issues
- Communicating security information and requirements to appropriate personnel including coordinating and/or conducting security awareness training sessions
- Conducting review of all User ID's issued to determine if the users still have a valid need to access EIV data and taking necessary steps to ensure that access rights are revoked or modified as appropriate
- Reporting any evidence of unauthorized access or known security breaches to the office of the Director of Housing Operation and taking immediate action to address the impact of the breach including but not limited to prompt notification to compliance officer. Director of Housing Operations or his/her designee will escalate the incident by reporting to appropriate parties including the Contract Administrator and/or HUD.

The EIV Database is part of HUD's Secure Systems Database. Individual Users must use their own user name (MID/WASS ID) and password to access the Secure Systems database. Coordinators, who are not property owners, the Compliance Manager has obtained a letter of authorization from the property owner. This letter must state that the Secure Systems Coordinator has authorization to act as the EIV Coordinator. This letter is maintained in the property's EIV file and will be available to Reviewers during the Management and Occupancy Review.

In order to comply with **Technical Safeguards:**

- Each coordinator/user must have a valid WASS User ID and password
- IDs and passwords **must not be shared**
- No one may access the system using another users identity
- Each user must provide an application access authorization form (CAAF or UAAF)

- Access to data is restricted based on EIV role (EIV Coordinator or EIV User)
- Access is limited based on need to know
- Users understand that access and activity are monitored and audited

To comply with **Administrative Safeguards:**

- The owner/agent has established standard operating procedures for use of data
- Employment and income data is used for certification and compliance purposes only
- Users may not share data with others who do not have a need to know
- Users will check to see if applicant/tenant is receiving assistance under another program at a different location
- The HACM will monitor access
  - Obtain and retain owner approval letters
  - Approved/current signed access authorization form
  - Conduct periodic reviews to see if user still has a valid need to access the EIV data
  - Modify or revoke rights as appropriate
  - Assign Access Ensure access rights and responsibilities are appropriate
- Ensure that a signed copy of form HUD-9886 is on file for all adults living in the unit
- Destroy EIV information when it is no longer needed
- Ensure all EIV users receive security training at time of implementation and at least annually thereafter
- Communicate security information
  - Posters
  - Security bulletins
  - Discussion groups
  - Distribution of EIV manuals
- Detect, deter, and report improper disclosures, unauthorized access, or security breaches to the Compliance Officer.

The owner/agent has also implemented the following processes to ensure compliance with HUD's **Physical Safeguard requirements:**

- Designated secure areas
- Restricted use of printers, copiers, facsimile machines, etc.
- Controlled access to areas containing EIV information
- How to secure computer systems and output
  - If any EIV data is converted to an electronic format, it must be encrypted
  - All emails including EIV data must be encrypted
  - Store downloaded EIV data in a separate, restricted access directory
  - Label CDs containing EIV data "confidential" or "For Official Use Only"
  - Lock in secure place
- Users must retrieve all computer printouts as soon as they are generated so that EIV data is not left unattended
  - Keep printouts locked up

- Printouts should not be transported from premises
- Avoid leaving a computer unattended with EIV data displayed on screen
- Lock computer/Log off/Exit the system when not going to be at desk or when finished for the day (EIV will time-out after 30 minutes of inactivity)
- Use a password-protected screensaver
- Secure disposal of EIV information
  - Destroy as soon as it has served its purpose or as prescribed by HUD's policies and procedures
  - Burn/shred
  - Keep log of destroyed data
    - Date destroyed
    - How destroyed
    - By whom

## Security Awareness Training

Security awareness training is a crucial aspect of ensuring the security of the EIV System and data. Users and potential users will be made aware of the importance of respecting the privacy of data, following established procedures to maintain privacy and security, and notifying management in the event of a security or privacy violation. Before granting access to the EIV information, each person must be trained in EIV Security policies and procedures.

Additionally, all employees having access to EIV Data will be briefed at least annually on the security policy and procedures that require their awareness and compliance. Information about user access and training will be maintained in the property EIV file.

EIV Users and Coordinators must complete the appropriate EIV Security Awareness Training Questionnaire during initial setup, as required by HUD and annually as prompted by the EIV system.

## Physical Security Requirements

The owner/agent may use a combination of methods to provide physical security for resident file records. The EIV data may be maintained in a locked metal file cabinet within a locked file room.

☐ Restricted Areas: The owner/agent will have the areas clearly identified by the use of prominently posted signs or other indicators. For example "Employees Only". This sign will be posted on the door to the locked file room. The restricted areas will be separated from non-restricted areas by physical barriers that control access and/or will have limited points of entry.

☒ Since the EIV data in resident files is maintained in the locked file room, designated staff will establish and maintain a key control log to track the inventory of keys available, the number of keys issued and to whom the keys are issued. All employees and contractors who have been

issued keys to the file room will complete a form acknowledging the receipt of the key. See EIV Privacy Policy.

Users will retrieve computer printouts as soon as they are generated so that EIV data is not left unattended in printers or fax machines where unauthorized users may access them. EIV data will be handled in such a manner that it does not become misplaced or available to unauthorized personnel.

## **Limiting Access to EIV Data**

User accounts for the EIV system will be provided on a need-to-know basis, with appropriate approval and authorization.

### ***EIV System Coordinators***

Before accessing EIV, the Secure Systems Coordinators will obtain a letter/memo from each property owner indicating that the owner gives permission for the Secure Systems Coordinator to act as the EIV coordinator. Once that permission is obtained, the Coordinator will:

- Review the EIV training material provided by HUD
- Participate in EIV Security Training from HUD or another source
- Read and ☒ sign the EIV Security Policy
- Read the EIV Use Policy

Upon completion of these tasks, the EIV Coordinator will submit to HUD, the appropriate Coordinator Access Authorization Forms. Upon receipt of HUD approval, the EIV Coordinator will complete the EIV Coordinator setup process.

### ***EIV Users***

Before requesting EIV User access, appropriate staff will:

- Review the EIV training material provided by HUD
- Participate in EIV Security Training from HUD or another source
- Read and ☒ sign the EIV Security Policy
- Read the EIV Use Policy

Upon completion of these tasks, the EIV User will submit, to the EIV Coordinator, the appropriate User Access Authorization Form. The EIV Coordinator will confirm that the steps listed above have been completed. Once the tasks are satisfactorily completed, the EIV Coordinator will complete the appropriate steps to provide EIV access to the user. In accordance with HUD requirements, the user's need for access will be reviewed on a semiannual basis.

At least once a year, staff with EIV access will be required to:

- Participate in training that includes a review of the EIV security requirements and
- Complete the EIV Security Awareness Training Questionnaire

HACFM will restrict access to EIV data only to persons whose duties or responsibilities require access. EIV Coordinators will be required to request re-certification on an annual basis. EIV Coordinators are authorized to provide access only to those individuals directly involved in the resident certification process and/or compliance monitoring.

EIV Coordinators will carefully review initial and quarterly requests for access and certify only those users who will need access within the next 6 months.

☒ In some cases, EIV information may be provided to auditors charged with ensuring the owner/agent's compliance with HUD requirements. In these cases, the auditor will be required to review and sign the property's Privacy Policy for Auditors and will be required to sign the HUD Rules of Behavior document. These documents will be maintained in the property's EIV File. In addition, the auditor's access will be noted on the EIV File checklist for review during the RIM Review.

HACFM will maintain a record of users who have approved access to EIV data. Further, HACFM will revoke (Terminate) the access rights of those users who no longer require such access.

The HUD 9886 Fact Sheet will be provided to all adult household members required to sign the form. By signing this HUD Form 9886 the applicant/resident authorizes HUD and/or the owner/agent to obtain and verify income and unemployment compensation information from various sources including, but not limited to, the IRS, the Department of Health and Human Services and the Social Security Administration and state agencies. At the final eligibility interview and at each annual certification, HACFM will provide a copy of the EIV and You Brochure so that the household is adequately informed about the EIV verification process and so that the resident's understand the penalty for failing to fully disclose income information.

**HACFM** will assure that a copy of Form HUD - 9886 has been signed by each member of the household age 18 years or older. The HUD 9886 will be presented at the final eligibility determination, at move-in and/or initial certification and at each annual certification. **If a household member turns 18 in the middle of a certification cycle, that household member will be required to sign Form 9886 ☐ within 30 days of turning 18 ☒ at the next certification.**

## Computer System Security Requirements

All computer systems and computers will have password restricted access. Passwords must be no fewer than 8 characters and must include:

- At least one lower case letter
- At least one upper case letter
- At least one number or character such as a dash or exclamation point

The owner/agent will also use Antivirus software to limit data destruction or unintended transmission via virus, worms, Trojan horses or other malicious means. Remote access by other computers other than those specifically authorized is prohibited. Authorized users of EIV data are directed to avoid leaving EIV data displayed on their computer screens where unauthorized users may view it. A computer will not be left unattended while the user is “logged in” to Secure Systems. If an authorized user is viewing EIV data and an unauthorized user approaches the work area, the authorized user will lessen the chance of inadvertent disclosure of EIV data by logging out of Secure Systems or minimizing or closing out the screen on which the EIV data is being displayed.

### ***User Names, Passwords and Password Changes***

Many systems require frequent changes to passwords. Secure Systems / EIV passwords will be changed in accordance with HUD Secure Systems requirements. Users will not share passwords with any other employee or with anyone outside the organization. EIV access granted to an employee or authorized user will be revoked when access is no longer required or prior to termination of that employee or user to ensure data safety.

Termination of EIV access and un-assigning property access through “Property Assignment Maintenance” is required.

**The EIV file will be documented to indicate when user access was terminated by the EIV Coordinator. Documentation of termination will be maintained in the property EIV file.**

## **Disclosure of EIV Information**

The EIV Social Security (SS), Supplemental Security Income (SSI), new hires (W-4), wage, and unemployment compensation information contained in the EIV system may only be used for limited official purposes.

- By Local HUD field office personnel for monitoring and oversight of the resident recertification process
- By the Office of the Inspector General (OIG) for investigative purposes.
- By PHA’s for verifying the employment and income at the time of certification for residents

EIV Data may be disclosed to:

- PHA’s
- Management agents
- HUD staff
- HUD Office of Inspector General (OIG) for investigative purposes
- Individual to whom the record pertains

EIV income data may only be used for:

- Verification of employment and income at certification

- Discrepancy monitoring as described in the EIV Use Policy

Under no circumstances may users or coordinators provide access to the system by sharing the user name/password combination. Owner/agents must not disclose data in any way that would violate the privacy of the individuals.

EIV data must not be disclosed (or re-disclosed) to any third parties such as the local Welfare office, DFCS, etc. Willful disclosure or inspection of EIV data can result in civil and criminal penalties.

- Unauthorized disclosure – felony conviction and fine up to \$5,000 or imprisonment up to five (5) years, as well as civil damages
- Unauthorized inspection – misdemeanor penalty of up to \$1,000 and/or one (1) year imprisonment, as well as civil damages

Official use **does not include** using the EIV data for certifying residents under the Low Income Housing Tax Credit (LIHTC) or Rural Housing Services (RHS) Section 515 programs. Neither the Internal Revenue Service (IRS) nor RHS are a party to the computer matching agreements HUD has with the Department of Health and Human Services (HHS) and with the Social Security Administration (SSA).

The fact that there is financing through other federal agencies involved in a particular property under one of the authorized HUD programs **does not** permit that federal agency to **use or view** information from the EIV system for certifying residents for their programs or for monitoring purposes.

- Create separate files for HUD programs and other programs
- Maintain EIV information in a manila envelope that can be removed from the file to prevent unauthorized disclosure
- Create a separate EIV verification file to ensure the privacy of EIV information. OAs can make that file available to HUD or to HUD Reviewers when participating in the HUD Management and Occupancy Review conducted using the HUD Form 9834.

## Use and Handling of EIV Data

EIV Data serves two purposes:

1. Verification of specific income information provided by the resident
2. Monitoring resident and staff compliance

Use of the data is described in the EIV User Policies. This policy is designed to describe the security protocol used to protect EIV data.



EIV Data will be used only to administer HUD programs. **The data in EIV is not to be used to assist with eligibility determination or compliance monitoring for any other programs including those administered by the IRS (Tax Credit) or Rural Development (515).**

### ***EIV Printouts***

☒ Reports available through EIV will not be printed to a shared printer unless the EIV user plans to immediately retrieve the data. It is preferred that all EIV printouts are sent to the user's personal printer. EIV printouts will be stored in the resident file for the term of residency and for three years after residency ends.

In addition to use by the owner/agent, EIV reports may also be used by Contract Administrators (CAs) (Performance Based Contract Administrators (PBCAs), Traditional Contract Administrators (TCAs) and HUD staff) for monitoring compliance with the recertification process; independent public auditors (IPAs) auditing an owner's compliance with HUD's verifying income and the accuracy of rent/subsidy determinations; and, the Office of Inspector General (IG) for auditing purposes.

☒ EIV Income Reports are retained in the resident file for the term of tenancy and for the term after tenancy determined by HACFM Destruction Policy. Because the property also participates in other housing assistance programs (LIHC or 515) the owner/agent will take special precautions to ensure the security of the EIV printouts. EIV printouts will not be maintained in a separate resident file, separate from the tenant file. EIV printouts will be provided to approve parties, when required, to facilitate compliance with HUD requirements and HACFM EIV Use Policy.

### ***Providing EIV Printouts to Auditors***

☒ Independent auditors (IPAs) are approved to view EIV information, when hired by an owner to perform the financial audit of the project, for use in determining the owner's compliance with verifying income and determining the accuracy of the rent and subsidy calculations.

Restrictions on disclosure requirements for IPAs:

- (a) Can only access EIV income information within hard copy files and only within the offices of the owner or management agent;
- (b) Cannot transmit or transport EIV income information in any form;
- (c) Cannot enter EIV income information on any portable media;
- (d) Must sign non-disclosure oaths (Rules of Behavior) that the EIV income information will be used only for the purpose of the audit; and

- (e) Cannot duplicate EIV income information or re-disclose EIV income information to any user not authorized by Section 435(j)(7) of the Social Security Act to have access to the EIV income data.

### ***Providing EIV Printouts to Residents***

If a resident requests a copy of their own EIV printout, a copy will be produced. The staff person providing the copy will note that the printout is a copy provided to the resident upon request. This note will include the following:

- This is not an original, this is a copy provided to: Resident Name
- On \_\_\_\_\_, 20\_\_
- By \_\_\_\_\_ (name will be printed)
- Resident Initials \_\_\_\_\_

☒ The appropriate staff will make a note in the file any time a copy of the EIV data is obtained by authorized persons. This includes copies provided to the applicant/resident, staff responsible for compliance monitoring, other internal staff, HUD or OIG staff. Under no circumstances will the EIV information be provided to anyone other than those noted in this Security Policy.

### ***Providing EIV Printouts to Individuals Supportive of residents***

In some cases, residents require additional support from individuals during certification. The supporting individuals may or may not be part of the resident's family. These include but are not limited to:

- Service coordinators
- Translators
- Guardians providing supportive services to residents with disabilities

If there is need to provide copies of EIV printout to those individuals so that they may assist with the certification process, the resident must sign a separate Release of Information Authorization Form that specifically identifies, by name, the person providing supportive service. The Authorization will also specify that the information is being provided solely to support HUD certification activity. The resident must sign and date the authorization. Authorized individuals who are associated with the owner or the owner's agent will also sign a copy of the EIV Rules of Behavior. The staff person providing the copy will note that the printout is a copy provided to the resident upon request.

This note will include the following:

- This is not an original, this is a copy provided to: Resident Name
- On \_\_\_\_\_, 20\_\_
- By \_\_\_\_\_ (name will be printed)

- Recipient Initials \_\_\_\_\_

☒ The appropriate staff will make a note in the file any time a copy of the EIV data is obtained by authorized persons. This includes copies provided to the applicant/resident, staff responsible for compliance monitoring, other internal staff, HUD, CA or OIG staff. Under no circumstances will the EIV information be provided to anyone other than those noted in this Security Policy.

## **Electronic Information from EIV**

☒ In some cases, there may be a need to send or store EIV information electronically. In these cases, all electronic versions of EIV information will be encrypted. If there is need to store the information on a hard drive, a specific folder will be created. The folder will be password protected to prevent unauthorized access. Information in the folder will be purged periodically to comply with HUD's EIV file retention policies.

If EIV information is copied to portable media (CD, DVD, tape, etc.) that portable media will be destroyed appropriately upon completion of the intended use. Documentation of the destruction will be maintained in the EIV file.

## **Disposal of EIV Information**

EIV data will be destroyed in a timely manner based on the information provided in HUD's published EIV training materials, HUD Handbook 2400.25, REV-2: HUD Information Technology Security Policy, dated October 1, 2008, HUD notices or as prescribed by the owner/agent's policy and procedures. The owner/agent's policy and procedures will not allow data retention that is longer than the time allowed in the published HUD materials.

Information about use of EIV information and how printouts were destroyed will be maintained in the EIV file.

## **Reporting Improper Disclosures**

Recognition, reporting, and disciplinary action in response to security violations are crucial to successfully maintaining the security and privacy of the EIV system. These security violations may include the disclosure of private data as well as attempts to access unauthorized data and sharing of passwords.

Upon the discovery of a possible improper disclosure of EIV information or other security violation by an employee or any other person, the individual making the observation or receiving the information will contact the EIV Coordinator and the Director of Housing Operations who will 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. The EIV

Coordinator will immediately review the report of improper disclosure and, if appropriate, the EIV Coordinator will remove EIV access.

Improper disclosure of any information is grounds for immediate termination. All employees must carefully review the EIV Access Authorization Form or the Rules of Behavior to understand the penalties for improper disclosure of EIV data.

### **EIV Policy and Procedure - File Documentation**

The Housing Authority of the City of Fort Myers (HACFM) requires all Housing and Section 8 staff to use the Enterprise Income Verification (EIV) system in its entirety to verify tenant / client employment and income information during the annual/flat rent update reexaminations of family composition and or income; and reduce the administrative and subsidy payment errors in to CFR24;5.236 and PIH 2010-19(HA) Notice (Administrative guidance issued by the Department of Housing and Urban Development (HUD).

- HACFM staff is responsible for performing annuals/ interims/new admissions/transfers and initial certification. Staff will access the EIV system and obtain an Income Report for each household, and staff is required to maintain this report in the tenant/client file that as an accompaniment to the 50058 (Family Report). The Required File Documentation:

#### **New Admissions:**

- Housing Staff must run an EIV Income Report on all new admissions ninety (90) days from move in / admission to any HUD Assisted program to confirm and or validate family reported income.
- Any discrepancies must be resolved with 30 days of the date the EIV Income Report date and an interim must be preformed if income changes the TTP or Tenant rent and retroactive back to the move in date (increases only).
- If the tenant does not appear in EIV, staff must notify the PIC Coordinator as soon as possible to verify if the 50058 have been accepted by PIC (Public and Indian Housing Information Center). Project based Section 8 programs must review TRACS.
- If it has been accepted and tenant/client income information is pending, staff will re-run the EIV Income Report again in ten (10) days. If the 50058 was not accepted the resubmission on the 50058 must be sent on the same date and follow up on until accepted. The EIV Income Report must be run again in thirty (30) days after resubmission to meet HUD's requirement of 90 days and tenant/client file and Data / Application Note Screen must be documented.

#### **Annual Rexam:**

- Housing staff should start the recertification process 120 days before the tenant's/client's anniversary month.
- EIV Income Reports will be run within 60-120 day before the start of the anniversary month.
- EIV Income Report must be matched to tenant/client supplied income documentation. Documents cannot be older than 60 days old, current and consecutive.

- If the Income Report does not contain any employment or income information for the family, HACFM staff should attempt the next level verification technique, as noted in the below chart.

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification (UIV)</b> using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	<b>Highest</b> (Mandatory)
5	<b>Upfront Income Verification (UIV)</b> using non-HUD system	<b>Highest</b> (Optional)
4	<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)
3	<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)
2	<b>Oral Third Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
1	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third party verification)

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- If a discrepancy exists, and the tenant disputes the EIV Income Report. The tenant and staff must resolve within 10 days of review and lease signing. Note: ultimately it is the tenant's responsible to disprove the EIV Income Report, however staff should be prepared do written third party verification.
- Tenant/client review and lease signing should take place at least 45 days before the start of the anniversary month.
- If staff find a income discrepancy exceeding \$2,400.00 from what was projected from last year's income from the actual income the family reported, a third party verification must be done and all information must be reported to the Director of Housing Management for the possibly of family being reported to the Office of HUD's OIG.
- The tenant/client file will contain the Summary Page with the ICN number, Income Report, Certification Page sign by tenant and the Income Discrepancy page. These forms

will be placed right after the 50058's and before the tenant supplied income documentation and or verifications.

- 30 days before anniversary month the tenant file should be quick audited by staff as a final review as well as SACS before the 50058 is transmitted to PIC.

### **Interim Rexam:**

- If the tenant is reporting a decrease in income, a Client Update form must be completed along with written third party verification from the source of which the tenant is claiming the lost and the EIV reports.
- If the tenant is reporting an increase in income, along with the Client Update form tenant my supply income documentation (award letter, pay stubs and or employer notice/ letter of hire etc.). Staff will run the EIV Reports and attach to the interim process.
- If during the interim/annual process you find that a tenant is not in the EIV system, staff will be directed to get with staff's PIC coordinator to do a historical adjustment by sending the last 50058 action as a code 14. Once the 50058 has been accepted, within 60 days staff will confirm/validate family reported income. If any discrepancies exist, tenant and staff must resolve with 30 days.

### **Acceptable File Documentation**

- If the family does not dispute EIV employer data, and HACFM determines that additional information is not necessary, acceptable file documentation consists of:
  - EIV income detail report with the ICN number; and or
  - EIV ICN number page and EIV Certification page instead of the income report; and
  - Tenant –provided documents
- If the family disputes the EIV employer data, or HACFM staff determines that additional information is necessary, file documentation includes:
  - EIV income report printout as noted above;
  - Tenant-provide documents;
  - Third-party written verification, such as an employer form.

If staff only uses the ICN and EIV Certification pages to document the tenant/client file, the detailed income report will be destroyed by shredding.

**The Housing Authority  
Of the City of Fort Myers  
Section 8 Homeownership Voucher  
Addendum I  
Chapter 20 Section 8 Administrative Plan**

The Housing Authority of the City of Fort Myers (HACFM) hereby establishes a Home Ownership Voucher option in Fort Myers, Florida, pursuant to the US Department of Housing and Urban Development's (HUD) proposed rule dated April 30, 1999 and pursuant to Section 555 of the Quality Housing and Work Responsibility Act of 1998, which authorizes HUD to carry out demonstration programs under section 8(y). The Final Rule, effective October 12, 2000, allows public housing agencies (PHAs) the option of providing Housing Choice Voucher assistance to an eligible family that purchases, rather than rents, a dwelling unit that will be occupied by the family.

Homeownership assistance offers a new opportunity for families that receive Housing Choice Voucher tenant-based assistance. As with other special housing types, the homeownership option does not require, and HUD does not provide, additional or separate funding. A PHA must use the voucher program funding previously established under existing Annual Contributions Contracts (ACC) to fund the Section 8 homeownership voucher program.

**Participant Qualification**

Any Housing Choice Voucher holder who has been issued a Housing Choice Voucher may utilize the subsidy to purchase rather than rent a home, subject to the following requirements:

- 1) A family must participate in the Family Self Sufficiency Program for one year prior to being referred to the Homeownership Voucher Program through the HACFM's FSS Coordinator. The FSS Coordinator will determine that the participant has met the initial requirements for referral to the program.
- 2) The Family Self Sufficiency Participant must have completed a HUD approved Home Buyer's Education Course and possess a certificate of completion from said program.
- 3) Current Housing Choice Voucher program participants must be in full compliance with their lease and all program requirements.
- 4) Applicants must be "first-time homeowners," where a family member must not have owned title to a principal residence in the last three years. Residents of limited equity cooperatives are eligible for the homeownership option.

## **Program Guidelines**

- 1) Housing Choice Voucher participant must not have had any Bankruptcy or foreclosure within the last five years.
- 2) All derogatory items on the applicant's credit must be satisfied.
- 3) Participants in the HOV Program option must participate in the Homeownership Retention Program Activity or other HACFM designee's pre- and post-purchase homeownership counseling program. At a minimum, the counseling will cover the following:
  - Home maintenance;
  - Money management;
  - Credit counseling;
  - How to negotiate the purchase price;
  - How to obtain homeownership financing;
  - How to find an affordable home;
  - Advantages of purchasing
- 4) The head of household or spouse must be employed full-time (employment must average a minimum of 30 hours per week) and have been continuously employed for a minimum of one (1) calendar year before applying to participate in homeownership program. Families in which the head of household or spouse are disabled or elderly are exempted from this requirement. Families with a disabled household member may request an exemption as a reasonable accommodation. Disabled Head of Households or spouse must have been receiving Social Security Benefits for one (1) year prior to the commencement of HOV assistance.
- 5) The family's income may not be less than the federal minimum wage times 2000 hours. Public assistance income may not be used for meeting this requirement, except for households in which the head or spouse is elderly or disabled and households that include a disabled person other than head or spouse. (Public Assistance includes federal housing assistance or the housing component of a welfare grant; TANF assistance; SSI that is subject to an income eligibility test; food stamps; general assistance or other assistance provided under a Federal, state or local program that provides assistance available to meet family living or housing expenses.)



- 6) The participant will be required to provide one percent (1%) of the home purchase price as a down payment from the family's resource.

### **Screening and Determination of Readiness**

The HACFM will review the Homeownership Voucher Program with all eligible HCV holders at the initial briefing and annual recertification.

The Pre-Application will be reviewed by the HACFM Family Self-Sufficiency Coordinator and/or HOV Coordinator for debt/asset ratio; minimum qualification status; employment status; escrow balances and Section 8 Program compliance status. If necessary, the FSS Coordinator or other staff member will schedule an appointment with the family to further determine their mortgage readiness.

### **Time Frame for Utilization**

An applicant will have a maximum of 180 days to find a home and enter into a 'Contract for Sale'.

If an applicant is unable to enter into a 'Contract for Sale' before the end of the 180 day deadline, the applicant will be allowed to continue to utilize the voucher in a rental situation.

Any extension beyond 180 days will be at the sole discretion of HACFM's Executive Director.

### **Permitted Ownership Arrangements**

The Homeownership option may be utilized in two types of housing.

- 1) A unit owned by the family, where one or more members hold title to the home.
- 2) A cooperative unit, where one or more family members hold membership shares on the cooperative.

### **Contract for Sale and Inspection**

Participants in the homeownership option program must complete a "Contract of Sale" with the owner of the property to be purchased.

The Contract of Sale must include the sale price and terms of sale, the purchaser's pre-purchase inspection requirements and notice that the sale is conditional on the purchaser's acceptance of the inspection report; and an agreement that the purchaser is not obligated to pay for necessary repairs.

The participant must obtain an independent professional home inspection of the unit's major systems at the participant's expense. The inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical and heating systems.

HACFM or its designee will conduct a Housing Quality Standards (HQS) inspection and will review an independent professional inspection of the unit's major systems. HACFM or its designee retains the right to disqualify the unit for inclusion in the homeownership program based on either the HQS inspection or the professional inspection report findings. The HACFM will perform a housing quality standards inspection for the first year of program participation. Based on the inspection, the family will be sent a list of suggested repairs. The HACFM will not, however, conduct a reinspection to determine if the repairs have been completed. In contrast to the Section 8 rental program, the family will not be considered noncompliant with the program if they fail to make repairs within a certain time frame.

If the home was constructed within 60 days of the Contract of Sale and has remained unoccupied during that time, the use and occupancy letter from the local codes administrator can be substituted for the pre-purchase inspection.

The participant must determine and document whether or not the unit is in a flood hazard area. Units in flood hazard areas must be insured for flood damage.

## **Financing**

The household is responsible for obtaining financing; rate and terms of the first mortgage are subject to approval by HACFM or its designee. The first mortgage lender should be a federally-regulated financial institution. Any other lenders must be specifically approved by HACFM or its designee.

## **Length and Continuation of Assistance**

HOV assistance will only be provided for the time period that the family occupies the home, not to exceed ten (10) years for a mortgage (15) fifteen years or less and (15) years for a mortgage (20) years or greater. The participant will be recertified on an annual basis to determine income eligibility. In the event that the participant's income increases to the point that they are no longer eligible to receive a mortgage subsidy (i.e., zero mortgage assistance payment), the HACFM will notify the lender(s) of the family's increased financial responsibility for the payment. The family, however, remains eligible for the program, in the event that their income decreased, for 180 days (6 months) from the date of the change.

## **Family Obligations**

Before commencement of homeownership assistance, the family must execute a “Statement of Homeownership Obligations” in the form prescribed by HACFM or its designee.

To continue receiving homeownership assistance, a family must comply with the following family obligations:

- A. Comply with the terms of any mortgage securing debt incurred to purchase the home, and any refinancing of such debt.
- B. During the period of time the family is receiving homeownership assistance:
  - The family may not sell, convey or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home subject to the approval of HACFM or its designee.
  - The family may not place any additional lien; take out a home equity loan or other encumbrance without prior written consent from HACFM and the mortgage lender.
  - The family must supply required information regarding income and family composition in order to calculate correctly total tenant payment and homeownership assistance.
  - The family must provide information on any mortgage or other debt incurred to purchase the home, and any refinancing of such debt, and any sale or other transfer of any interest in the home.
  - The family must notify HACFM or its designee if the family defaults on a mortgage securing any debt incurred to purchase the home.
  - The family must notify HACFM or its designee before the family moves out of the home.
- C. The family must, at annual recertification, document that he or she is current on mortgage, insurance and utility payments,

## **Assistance Payment**

The family's HOV monthly housing assistance payment will be the lower of (1) the HCV payment standard minus the Total Tenant Payment or (2) the monthly homeowner expenses minus the Total Tenant Payment.

Homeownership expenses include principal and interest on mortgage debt, refinancing charges of mortgage debt, taxes and other public assessments, insurance and utilities as per the Section 8 utility allowance schedule.

Housing assistance payments will be made by the HACFM directly to the mortgage lender.

The assistance payment will be adjusted to reflect changes in the payment standards.

If a family's income increases to a point that they do not receive a housing assistance payment, eligibility for such payments will continue for 180 calendar days. At the end of a continuous period of 180 days without any assistance payments, eligibility for HOV assistance will automatically terminate

## **Lease-to-Purchase**

Lease-to-purchase agreements are considered rental property and subject to the normal tenant-based HCV rental rules. The family will be subject to the homeownership requirements at the time the family is ready to exercise the homeownership option under the lease-to-purchase agreement.

## **Defaults**

If a participant in the HOV Program defaults on his or her home mortgage loan as determined by the lender, the participant will not be able to use his or her Homeownership Voucher for rental housing. The head of household or other family members must reapply for the HCV rental assistance waiting list and be subject to the open-enrollment waiting time.

## **Recapture**

If the participant sells the home prior to the affordability period of (10) ten to (15) fifteen year subsidy limit, a percentage of the homeownership assistance provided to date must be recaptured. The terms of the sale agreement will be reviewed by a HACFM staff member to determine the amount of profit earned in relation to participant payments and the HACFM HCV subsidy provided in accordance with 24 CFR Part Five 982.640.

- Only those proceeds realized upon refinancing that are retained by the family are subject to recapture.
- Sales proceeds that are used by the family to purchase a new home with HCV assistance are not subject to recapture. The family may also refinance the loan to take advantage of a lower interest rate without penalty.

## **GLOSSARY**

### **A. 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

## **B. 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 PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

***Accessible.*** The facility or portion of the facility can be approached, entered, and used by 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 the PHA for administration of the program. See §982.152.

***Administrative fee reserve*** (formerly “operating reserve”). Account established by PHA 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 PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and included as a supporting document to the PHA Plan. See §982.54.

***Admission.*** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

***Amortization payment.*** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

***Annual contributions contract (ACC).*** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA 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 PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

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

**Child care expenses.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, 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 PHA 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.

**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.*** A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (CFR 5.603)

***Facility.*** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

***Fair Housing Act*** 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.** Includes but is not limited to the following, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program).** The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the Federal Government.

**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 the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Housing assistance payment.** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing agency (HA).** 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. ("PHA" and "HA" mean the same thing.)

**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 PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Jurisdiction.** The area in which the PHA has authority under State and local law to administer the program.

**Landlord.** Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

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

**Local Preference.** A preference used by the PHA to select among applicant families.

**Low Income Family.** A family whose income does not exceed 80% 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, PHAs 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.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Persons 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 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 PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“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 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.

**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 the PHA 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 a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension.** Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. 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 a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**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 the PHA 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.

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (Housing Choice Voucher).** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

**Voucher holder.** A family holding a voucher with an unexpired term (search time).

**Voucher program.** The housing choice voucher program.

**Waiting list admission.** An admission from the PHA 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 PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).