

**Head of Household**

The head of household is the adult member of the household who is designated by the family, 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 may be recognized as the head of household.

**Live-In Aide**

**CFR 982.316**

A family that consists of one or more elderly, near-elderly or disabled persons may request that the HA approve a live-in aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities. The HA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR Part 8 to make the program accessible to and usable by the family member with a disability. A statement from a licensed professional supporting the need for a Live-In Aide will be required. This statement must be renewed every year at the annual recertification.

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

1. Is determined by the HA to be essential to the care and well being of an elderly person or a person with disabilities,
2. Is not obligated for the support of the person(s),
3. Would not be living in the unit except to provide the necessary supportive services.

Occasional, intermittent, multiple or rotating care givers do not meet the definition of a live-in aide since 24CFR Section 982.402(b)(7) implies live-in-aides must reside with a family permanently for the family unit size to be adjusted in accordance with the subsidy standards established by the PHA. Therefore, regardless of whether these caregivers spend the night, an additional bedroom should not be approved (PIH 2009-22).

A PHA may only approve one additional bedroom for a live- in aide. Although a live-in aide may have PHA-approved family member/s live with him/her in the assisted unit, no additional bedrooms will be provided for the family members of the live-in aide. The PHA must ensure that housing quality standards (HQS) will not be violated and that there will be no more than two people per bedroom or living/sleeping space in the unit in accordance with 24 CFR § 982.401(d)(2)(ii). If the approval of additional family members of a live- in aide would result in the violation of HQS, the additional family members of the live- in aide may not be approved.

**PIH 2010-51 (HA)**

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

1. Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
2. Live-in aides will not be considered as a remaining household member of the tenant family or be entitled to any housing assistance independent of the participant and will sign a certification to that effect.

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At any time, the HA may refuse to approve a particular person as a live-in aide, or may withdraw such approval, if:

1. The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
2. The person violates the Amended Policy on Zero Tolerance of Criminal Activity; or
3. The person currently owes rent or other amounts to the HA or to another HA in connection with Section 8 or Public Housing Assistance under the 1937 Act;
4. If the live-in aide requires a live-in aide or care provider for themselves;
5. If the HOH requires a live-in aide, the HOH may not be a live-in aide/caretaker for someone else.
6. If the live-in aide would not be living in the unit except to provide the necessary supportive services (i.e. spouse/co-head or parent of a child).

### **Multiple Families in the Same Household - Joint Custody of Children**

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

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

When both parents are trying to claim the child, the HA will consider court records as the authority for custody. In the absence of court records, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent and as a member of that household.

### **B. INCOME LIMITS**

*24 CFR 982.201 (b) (1)*

HUD determines income limits for admission to the Section 8 Program. To be eligible, the applicant must be a family in any of the following categories:

- A "very low income" family;
- A low-income family that is "continuously assisted" under the 1937 Housing Act;
- A low-income family that meets additional eligibility criteria specified in the PHA administrative plan. Such additional PHA criteria must be consistent with the PHA plan and with the consolidated plans for local governments in the PHA jurisdiction;
- A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project. (Section 8(o)(4)(D) of the 1937 Act (42 U.S.C. 1437f(o)(4)(D));
- A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in § 248.101 of this title;
- A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under § 248.173 of this title.

**C. DISCLOSURE OF SOCIAL SECURITY NUMBERS- PIH 2010-3 and 24 CFR 5.216**

All applicants and participants are required to disclose a social security number. PHAs will not need to re-verify previously disclosed valid SSNs. PHAs may rely on documentation of the SSN provided by another government agency (federal or state). Addition of new household members at least 6 years of age or under the age of 6 and who **has an assigned SSN**, the tenant must disclose the SSN and provide documentation of the SSN to the PHA at the time of request to add new household member or during interim re-exam. The new household member **cannot** be added to the family composition until the family has complied with SSN disclosure and verification requirements. Addition of new household members under the age of 6 **without an assigned SSN**, are included as household members and entitled to benefits and the Head of Household is given 90 days to provide documentation of the SSN. Extensions may be given due to unforeseen circumstances. Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

**D. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS** (24 CFR Part 5)

**Mixed Families**

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

**No eligible members**

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

**Non-citizen students.**

Non-citizen students as defined by HUD in the non-citizen regulations are not eligible for assistance.

**Appeals**

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

**E. SUITABILITY OF FAMILY**

It is the responsibility of the owner to screen the applicants as to their suitability for tenancy.

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

Changes that occur after the issuance of a Voucher, but before the execution of a lease and contract must be processed so that under no circumstance will a family be admitted if they are over the HUD published 50% AMH Area Median Income Limit. For example, if a household goes over the income limit prior to lease up, the applicant is no longer eligible for the program [24 CFR 982.201(b)(4)]. They will be notified in writing of their ineligible status and their right to an informal review.

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In order to be compliant with regulatory requirements, the Housing Authority will release families to result in a lease up of 75% of the families being at or below 30% of the median income (extremely low income). If a family has a change in income that results in the family exceeding the 30% income limits for the family size at the time of verification and up until voucher issuance ~~and/or prior to lease up~~, the family's income will be updated and they will be returned to the waiting list and notified in writing. The family will be eligible for a future release between 30% and 50% of the income limits (very low income).

Changes that are reported after voucher issuance will not affect the preference eligibility of the household once the preference criterion has been verified.

### **G. 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.

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**Chapter 3**

**APPLYING FOR ADMISSION**

**INTRODUCTION**

The HA Section 8 waiting list closed July 1, 2010, as the existing pool of applicants exceeded foreseeable resources. The waiting list will remain closed until such time as it is determined additional applicants are required to ensure full program utilization. Should the waiting list reopen, The HA will follow procedures in accordance with 24 CFR 982.206 and Public Notice will be given and outreach conducted to allow all those wishing to apply equal opportunity. This chapter describes the policies and procedures for completing the waiting list registration, placement on the waiting list, and completion of the Housing Choice Voucher Program (Section 8) Application, including verifications and other required documents. Registrants will be placed on the waiting list in accordance with this Plan.

**A. WAITING LIST REGISTRATION**

At such time as the Section 8 waiting list reopens, public notice will be issued and outreach will be conducted on a continual basis by distribution of waiting list registration forms to libraries, non-profit organizations and other public agencies. Advertisement of the housing programs is done on an as needed basis in the local paper of record, minority newspapers, other media and the agency's website at [www.harivco.org](http://www.harivco.org). Outreach and advertisement notices include:

1. A brief description of the housing programs
2. Basic information on eligibility requirements
3. The HA's address and telephone number

When the Section 8 waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance must complete a registration form. Registrations will be taken by phone, on the Internet, by mail, by fax or by personal delivery to the HA offices. Please note that in order to be placed on the waiting list, a valid address must be provided since the HA's primary form of communication is by mail. This is to avoid an applicant being withdrawn or removed from the waiting list for failure to respond to correspondence or returned mail. If an applicant has no valid address (homeless, etc), it is suggested that they obtain a Post Office (PO) Box or provide a valid General Delivery Address. Upon request, reasonable accommodations will be made for persons with disabilities.

When the waiting list registration form is received by the HA, the first time applicants will receive a letter that confirms placement on the waiting list. The person whose name is listed on the registration will be considered the Head of Household and will be the person entitled to the placement on our waiting list. The letter will include instructions to verify information and report changes as they occur.

The purpose of the registration form is to permit the HA to determine placement on the waiting list based on the information provided by the applicant. Registrants are required to inform the HA of changes in family composition, income, and address, as well as any changes in their preference status (See Chapter 4) in writing or by submitting a Waiting List Change Form. Registrants are also required to respond to requests from the HA to update information on their

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registration, or to determine their continued interest in assistance. Failure to provide information or to respond to mailings will result in the registrant being removed from the waiting list.

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**B. HOUSING CHOICE VOUCHER PROGRAM (SECTION 8) APPLICATION**

When funding is available, families will be sent a Housing Choice Voucher Program (Section 8) Application according to their preference-determined sequence and by the date the registration was received by the HA. This process is followed regardless of family size.

The Housing Choice Voucher Program (Section 8) Application and related verifications determines the family's ability to claim a preference and requires a signature. The qualification for preference must exist at the time the preference is verified regardless of the length of time an applicant has been on the waiting list because the preference is based on current status. If the family does not meet the current preferences, they are returned to the Waiting List.

If the family meets the preferences, they are sent an Eligibility Questionnaire, which includes the HUD Form 9886, Release of Information, Form HUD-52675, What You Should Know About EIV and the Declaration of Citizenship. All adult members must complete and sign these documents. The Eligibility Questionnaire is used to determine final eligibility for Voucher issuance and requires full verification. Applicants will be required to sign specific verification forms requesting information that 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 HA.

If the HA utilizes an interview at the time of the full application, it is the applicant's responsibility to reschedule the interview if she/he misses the appointment. Appointments are rescheduled only if missing the appointment is justifiable and the request is made no later than 10 calendar days from the original appointment date. Requests for rescheduled appointments must be submitted in writing with verification (doctor's note, etc.) as to the reason for the reschedule. If the applicant does not reschedule a missed meeting, the HA will deny the application. Upon request, reasonable accommodations will be made for persons with a disability.

If the HA determines at or after the interview that additional information or document(s) are needed, the HA will request the document(s) or information in writing. The family will be given 10 calendar days to supply the information. If the information is not supplied in this time period, the HA will provide the family a notification of denial for assistance.

If an applicant is denied assistance, the applicant will be offered an opportunity to request an informal review.

After the verification process is completed, the HA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the HA, and the current eligibility criteria in effect. If the applicant is determined eligible, a briefing will be scheduled to issue a Voucher and explain the family's obligations and the program requirements.

During the initial eligibility determination process and any subsequent eligibility reexaminations, all contact such as correspondence, telephone calls, interviews, or inspections will be documented by the Housing Specialist.

**Chapter 4**

**SELECTION OF FAMILIES FROM WAITING LIST**

**INTRODUCTION**

It is the HA's objective to ensure that the families are placed in the proper order on the waiting list so that an offer of assistance is not delayed to any family, or made to any family prematurely. This chapter defines the eligibility criteria for the HA, and it explains the waiting list order which the HA has adopted to meet local housing needs.

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

**A. WAITING LIST PREFERENCES**

The HA has implemented the following preferences for drawing names from the waiting list. In accordance with California State Law [HSC 34322.2 (b)], at each level of preference, families meeting the definition of a veteran according to California Military and Veterans Code, Section 980, will have priority. In accordance with Federal Regulations [24 CFR 982.201 (b) (2)], at each level below, from the families that meet the preferences, the Housing Authority will release families to result in a lease up of: 75% of the families will be at or below 30% of the median income (extremely low income), and 25% of the families will be between 30% and 50% of the median income (very low income). If the first level releases do not satisfy the regulations regarding extremely low income families, releases will be done at the second level of preferences until the 75% extremely low income requirement is met.

In order to be compliant with regulatory requirements, the Housing Authority will release families to result in a lease up of 75% of the families being at or below 30% of the median income (extremely low income). If a family has a change in income that results in the family exceeding the 30% income limits for the family size at the time of verification and up until voucher issuance and/or prior to lease up, the family's income will be updated and they will be returned to the waiting list and notified in writing. The family will be eligible for a future release between 30% and 50% of the income limits (very low income).

The waiting list will remain open at all times for registrations meeting an extraordinary local preference [CFR 982.206 (c)], registrations for families meeting the definition of a veteran according to California Military and Veterans Code, Section 980, [HSC 34322.2 (b)] and for HUD-funded specified families (i.e. Family Unification Program (FUP), Project Based Vouchers, Moderate Rehabilitation (Mod Rehab), Veterans Affairs Supportive Housing (VASH), discretionary vouchers targeting special needs populations, and Mainstream Vouchers [24 CFR 982.204 (e)]).

**EXTRAORDINARY LOCAL PREFERENCE**

Up to a total of 15% of annual admissions will be targeted for an extraordinary local preference for the following registrants: Referrals by the Court Program (A program run by Riverside County Family and Dependency Drug Courts); Foster Care Youth (A program of the Council for



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Youth Development); registrants—families whose head of household or co-head ~~that~~ are 75 years of age and older; registrants displaced by government action or emergency as certified by a city, county or state agency official (executive level or above), etc. The approval of the Director or designee is necessary for an extraordinary local preference. These admissions must meet the County of Riverside Residency Preference except for those who are displaced by government action. **24 CFR 982.204 (a) and 24 CFR 982.207 (a) (2) and (3).**

### **FIRST LEVEL**

- 1) County of Riverside Residency Preference, **and**
- 2) Qualified veterans who meet one of the following: Working Families (working at least 20 hours per week) with dependent or minor children or Elderly families ~~or~~ Disabled families **or**
- 3) ~~Qualified~~ Families whose head of household or co-head are 75 years of age and older **or**
- 4) Participants that have utilized a special program for a 5 year term such as Housing Options Program (HOP), Shelter Plus Care Program (S+C), Veterans Affairs Supportive Housing (VASH) and that no longer require supportive services and are eligible to transition to a regular Housing Choice Voucher provided they meet all other eligibility requirements.

### **SECOND LEVEL**

- 1) County of Riverside Residency Preference, and
- 2) Rent-burdened or homeless, and
- 3) Working Families (see Working Families definition) with dependent or minor children or Elderly ~~and or qualified families 75 years of age and older~~ families or Disabled families
- 4) ~~Qualified veterans and/or qualified families 75 years of age and older do not have to meet the rent-burdened or homeless preference.~~

### **THIRD LEVEL**

- 1) County of Riverside Residency Preference, and
- 2) Rent-burdened or homeless, and
- 3) Non-Working Families with dependent or minor children

### **FOURTH LEVEL**

- 1) County of Riverside Residency Preference, and
- 2) Rent-burdened or homeless, and
- 3) Working families (see Working Families definition) without children

### **FIFTH LEVEL**

- 1) County of Riverside Residency Preference, and
- 2) Rent-burdened or homeless, and
- 3) Non-working families without children.

The Housing Authority will exhaust all families at each preference level before releasing from the next lower level except as noted above. Date ~~and time~~ of registration for registrants with equal preferences will determine order of release.

### **Change in Circumstances**

Changes in a registrant's circumstances while on the waiting list may affect the family's

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entitlement to a preference. Registrants are required to notify the HA when circumstances change.

When a registrant claims an additional preference, she/he will maintain the original date of registration and will be updated on the waiting list in the appropriate order determined by the newly claimed preference. The qualification for preference must exist at the time the preference is verified regardless of the length of time an applicant has been on the waiting list because the preference is based on current status. Preference eligibility is verified at the time of completion of the Housing Choice Voucher Program (Section 8) Application up until voucher issuance.

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**B. EXCEPTIONS FOR SPECIAL ADMISSIONS**

**24 CFR 982.203**

If HUD awards program funding that is targeted for a specific group, the HA will admit these families under a special admission procedure. The families will be selected in accordance with the Notice of Funding Availability and the HA's application for funding.

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 HA maintains separate records of these admissions.

**C. TARGETED FUNDING**

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 family meeting the targeted funding criteria, based on ~~time and~~ date of registration.

Examples of targeted programs are:

- Disabilities/Mainstream
- Family Unification/Court Referrals
- Moderate Rehabilitation

**D. ORDER OF SELECTION**

Families are selected from the waiting list and sent a Housing Choice Voucher Program (Section 8) Application based on the preferences listed above. The waiting list will be organized by date among registrants with equal preference status regardless of family size. Preference information will be verified when families complete a Housing Choice Voucher Program (Section 8) Application and the qualification for preference must exist at the time the preference is verified up until voucher issuance regardless of the length of time an applicant has been on the waiting list because the preference is based on current status.

**E. IF PREFERENCES ARE NOT MET**

If the applicant does not qualify for a preference, the HA will return the family to the waiting list. The HA will notify the applicant in writing of the reasons why the preference was denied and inform the applicant that they have been returned to the waiting list with their original registration date before they were selected. If the applicant falsifies documents or makes false statements in order to qualify for any preference they will be denied assistance and offered an opportunity to request an informal review in writing within 10 days. Applicants may exercise other rights if they believe they have been discriminated against.

**F. REMOVAL FROM WAITING LIST AND PURGING**

If a registrant fails to respond within 30 calendar days to a mailing from the HA, the registrant will be removed from the waiting list. If a letter is returned by the Post Office without a forwarding address, the registrant will be removed without further notice, and a record will be maintained on the computer. Reasonable accommodations will be made for persons with disabilities.

The waiting list will be purged periodically by a mailing to registrants inquiring as to continued

interest to be on the waiting list to ensure that the waiting list is current and accurate.

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**Chapter 5**

**SUBSIDY STANDARDS**

**INTRODUCTION**

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

**A. DETERMINING VOUCHER SIZE**

The HA does not determine who shares a bedroom/sleeping room, but there must be at least one person per subsidized bedroom. The HA's subsidy standards for determining Voucher size shall be applied in a manner consistent with Fair Housing guidelines. 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. During the HAP contract term, the unit size on the Voucher (subsidy) may only change at the first full recertification after the change in family unit size. [24 CFR 982.505 (c) (5)]

One bedroom will be assigned to the head of the household and spouse/co-head, and one bedroom will be assigned for each additional two persons. An unborn child (with verification of pregnancy) will be counted as a family member in determining bedroom size.

The HA will not issue a larger Voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody. A larger bedroom size will not be issued if a member of the nucleus family moves out and returns as an adult, unless it is to offer a reasonable accommodation for a disabled family member. If a member returns as an adult and brings additional non-nucleus members with them, the voucher size does not increase. Adding additional non-nucleus members will not be approved if it causes the family to be under-housed.

Exceptions will be made in the documented cases of a live-in aide or as a reasonable accommodation to make the program accessible to and usable by the nucleus family member with a disability. The family unit size for any family consisting of a single person must be either a zero or a one-bedroom unit. A PHA may only approve one additional bedroom for a live-in aide. Although a live-in aide may have PHA-approved family member/s live with him/her in the assisted unit, no additional bedrooms will be provided for the family members of the live-in aide. The PHA must ensure that housing quality standards (HQS) will not be violated and that there will be no more than two people per bedroom or living/sleeping space in the unit in accordance with 24 CFR § 982.401(d)(2)(ii). If the approval of additional family members of a live-in aide would result in the violation of HQS, the additional family members of the live-in aide may not be approved. **PIH 2010-51 (HA)**

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Any foster members who are in the home at the time of initial voucher issuance, at the time of relocation or at an annual re-examination, and are determined to be long-term placement, will be considered as family members in the determination of subsidy size. For the purpose of determining subsidy size, long-term placement is defined as 12 or more months.

### **B. CHANGES IN VOUCHER SIZE**

#### **Changes for Applicants and Participants:**

The Voucher size is determined at the time of Voucher issuance by comparing the family composition to the HA subsidy standards. If an applicant or participant requires a change in the Voucher size, the following guidelines will apply:

#### **Requests for Exception to Subsidy Standard**

A family with a disabled family member may request that the HA grant an exception to the subsidy standard. The HA will approve the exception as a reasonable accommodation if the family demonstrates a nexus to the disability is present to make the program accessible to and usable by the family member with a disability. This will be verified through a third party licensed professional's verification. Verification of the need must be provided annually on a Housing Authority approved form. In addition, requests involving separate bedrooms for medical equipment will be verified at the time of a participant's annual inspection or a special inspection may be conducted after an initial lease up to ensure that program funds are being used for the purpose in which they were intended. A PHA may only approve one additional bedroom for a live-in aide. Although a live-in aide may have PHA-approved family member/s live with him/her in the assisted unit, no additional bedrooms will be provided for the family members of the live-in aide. The PHA must ensure that housing quality standards (HQS) will not be violated and that there will be no more than two people per bedroom or living/sleeping space in the unit in accordance with 24 CFR § 982.401(d)(2)(ii). If the approval of additional family members of a live-in aide would result in the violation of HQS, the additional family members of the live-in aide may not be approved. **PIH 2010-51 (HA)**

**Subsidy Standards Flexibility:** The criteria and standards prescribed for the determination of an applicant's unit size to be listed on the Voucher should apply to the vast majority of families. In some cases, however, the relationship, age, sex, health, or handicap of the family members may warrant the assignment of a different unit size than that which would result from strict application of the criteria. Such flexibility is permissible to the extent the determinations are made on the basis of such factors. Any allowable determinations of this type, however, should be fully documented in the applicant's file.

For example, an elderly, handicapped, or disabled person who requires a live-in aide may be assigned a Voucher to provide a private bedroom for the attendant in addition to the bedroom for the assisted household members who are not disabled or handicapped.

**1. Smaller-Sized Units:** The family may select a smaller-sized unit provided there is at least one sleeping room or living/sleeping room of appropriate size for each two persons in the household. (For example, a 3-bedroom Voucher Holder with 5 family members could select a 2-bedroom unit if there would be two bedrooms for four of the family and a living/sleeping room for the

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fifth member). The family would need to sign a statement saying that they have requested the smaller unit.

2. Larger-Sized Units: The unit size listed on a Voucher does not preclude the family from selecting a larger size unit provided the gross rent does not exceed the Rent Reasonableness limitation for the bedroom size listed on the Voucher (for example, a 2-bedroom Voucher Holder could select a 3-bedroom unit not to exceed the 2-bedroom Rent Reasonableness Limitation and the family's share of the rent and utilities does exceed 40% of their household's adjusted monthly income.

NOTE: At Initial Lease-Up for a unit, the Family Share of rent and utilities cannot exceed 40% of their Adjusted Monthly Income if the gross rent exceeds the applicable payment standard. The unit size designated on the Voucher must remain unchanged, regardless of the actual unit size selected.

### **Under-housed (unit too small for size of family)**

If a unit does not meet HQS space standards due to an increase in family size by birth, adoption, court awarded custody or marriage, the HA will issue a new Voucher.

### **Over-housed (unit too large for size of family)**

If a participant has a decrease in the family size, the family has the option to be issued a new Voucher or remain in the unit they are currently renting. If the family chooses to remain in the unit, the subsidy standard will be lowered at the next annual re-examination. If the family chooses to move, the Voucher will be issued with the correct subsidy standard. The amount the family pays for rent must be affordable and the tenant portion of rent and the current utility allowance cannot exceed 40% of their adjusted income at the time of lease up. The approved rent will be based on the payment standard for the number of bedrooms the family is eligible for, or the actual number of bedrooms in the unit, whichever is less. In cases where the gross rent is less than the payment standard, it will be used as the payment standard.

**C. UNIT SIZE SELECTED**

The family may select a different size unit than that listed on the Voucher using the HUD criteria for Payment Standards provided the unit is rent reasonable and affordable. The amount of assistance is based on the authorized or actual bedroom size, whichever is less.

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**Chapter 6**

**ELIGIBILITY FACTORS**

**INTRODUCTION**

The accurate calculation of annual income and adjusted income will ensure that families are not paying more or less money for rent than their obligation under the regulations. This chapter defines the allowable deductions from annual income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5 and further instructions set forth in HUD Notices, Memoranda and Addenda. The formula for the calculation of TTP is specific and not subject to interpretation. The HA's policies in this chapter address those areas which allow the HA discretion to define terms and to develop standards in order to ensure consistent application of the various factors that relate to the determination of TTP.

**A. HOUSEHOLD COMPOSITION**

The HA must compute all applicable income of every family member, including those who are temporarily absent. In addition, the HA must count the income of the spouse/co-head or the head of the household if that person is temporarily absent, even if that person is not on the lease. If the spouse/co-head is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay that HUD may define) is counted as income.

Income of persons permanently absent will not be counted.

It is the responsibility of the head of household to report (in writing) changes in income and family composition within 10 calendar days.

The HA will evaluate absences from the unit using this policy.

**Absence of Entire Family**

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

- Families are required to notify the HA before they move out of a unit.
- Families must notify the HA if they are going to be absent from the unit for more than three weeks.
- If it is determined that the family is absent from the unit, the HA will not continue assistance payments. "Absent" means that no family member is residing in the unit. In order to determine if the family is absent from the unit, the HA may, but is not limited to:
  - Write letters to the family at the unit
  - Telephone the family at the unit
  - Interview neighbors

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- Verify if utilities are in service
- Contact the landlord
- Conduct special inspections

If the absence which resulted in termination of assistance was due to a person's disability, and the HA can verify that the person was unable to notify the HA in accordance with the family's responsibilities, and if funding is available, the HA may reinstate the family if an accommodation is requested by the family.

### **Absence of Any Member**

Any member of the household will be considered permanently absent if she/he is away from the unit for 183 days in a 12 month period, except as otherwise provided in this chapter.

### **Absence due to Medical Reasons**

Housing Assistance Payments may continue up to six months when the subsidized unit is vacant due to hospitalization. However, hospitalization more than one month requires written medical verification that there is a reasonable expectation the person will be able to return to independent living within the six-month period. The participant's share of the rent must be paid during the hospitalization period. If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the HA's "Absence of Entire family" policy.

### **Foster care and Absences of Children**

If the family includes a child or children temporarily absent from the home due to placement in foster care, the HA will determine from the appropriate agency when the child/children will be returned to the home.

Any foster children or foster adults who are in the home at the time of initial voucher issuance, at the time of relocation or, at an annual re-examination, and are determined to be long term placement, will be considered as family members in the determination of subsidy size. For the purpose of determining subsidy size, long-term placement is defined as 12 or more months.

### **Temporary Caretaker for Children**

If neither parent remains in the household, and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the HA will treat that adult as a visitor for the first 180 days.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the HA will review the status at six month intervals. If custody or legal guardianship has not been awarded by the court, but the action is in process, the HA will secure verification from social services staff or the attorney as to the status.

After 180 days the HA will approve a person to reside in the unit as caretaker for the child/children, and the income will be counted pending a final disposition. The HA will transfer the Voucher to the caretaker for as long as his/her services are required. The HA will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

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When court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker until the child/children become able to care for themselves. In no case will the caretaker be eligible to become the remaining member.

### **Absent Adult**

If a member of the household is subject to a court order that restricts him/her from the home for more than six months then the person will be considered permanently absent.

The family will be required to notify the HA in writing within 10 calendar days when an adult family member moves out. The notice must contain a certification by the family as to whether the adult is temporarily or permanently absent.

If an adult child goes into the military and leaves the household, or moves out of the household to attend and live elsewhere for college, they will be considered permanently absent.

### **Visitors**

Any person not included on the HUD 50058 who has been in the unit more than 14 consecutive days, or a total of 30 days in a 12-month period (unless the lease is more restrictive), will be considered to be living in the unit as an unauthorized household member.

Minors and college student family members who live away from the home and who visit up to 182 days per year will be considered eligible visitors (subject to the lease agreement), not family members, and will not be counted in determining the subsidy standard for the family. Eligible visitors must be reported to and approved by the HA prior to visiting the home.

### **Reporting Changes in Household Composition to Owner and HA**

Reporting changes in household composition to the HA is both a HUD and a HA requirement. The family must submit a written request prior to adding household members. Any person who moves into the assisted unit without written approval from the Housing Authority will be considered an unauthorized household member. Additions to the household by birth, adoption or court-awarded custody must be reported in writing to the HA within 10 calendar days. In addition, the family must obtain prior written approval from the owner when there are members and/or a live-in aide added to the household.

If a family member leaves the household, the family must report this change to the HA, in writing, within 10 calendar days of the change and certify as to whether the member is temporarily absent or permanently absent. The HA will conduct an interim evaluation for changes in accordance with the interim policy. The HA will require verification of the family member's new address. If the head of household is unable to provide this information because the person's whereabouts are unknown, the head of household will be required to complete a Certified Statement to this effect.

## **B. INCOME, ALLOWANCES AND MINIMUM FAMILY CONTRIBUTION**

HUD regulations define incomes and allowances. The HA will include and exclude income in accordance with 24 CFR Part 5. Once the PHA has verified all income necessary to determine income eligibility and has determined that it is ready to issue the family a voucher, it must

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compute the family's Annual Income in accordance with HUD regulations. Income will be calculated in accordance with the procedures outlined below:

(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 lumpsum 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; 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:

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

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

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

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

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

**A. Project the income** from all known sources of income expected to come into the home during the 12-month period following the date of initial certification, annual reexamination, or interim reexamination. Regular periods of seasonal work and layoffs should be included.

**B. Where it is difficult to project income** for the coming 12-month period it may be necessary to:

1. Estimate the anticipated income from all sources, based on verified information. If any estimates are used, based on specific verifications or other information, in computing income or allowable expenses on an annual basis, the PHA should clearly identify the rationale for its estimate and the specific method used;
2. Base the projection on amounts of actual income for the past 12-months if circumstances are expected to remain the same; or,
3. Annualize known income amounts for a 12-month period, even though those amounts are not expected to last for the full 12-months. In such cases, an Interim Reexamination would need to be scheduled for a future date.

**C. When the Applicant Family's Total Assets Exceed \$5,000.00**, including imputed amounts of assets disposed of for less than market value during the last 2 years, it is necessary for the PHA to make both of the following calculations:

1. Calculate the dollar amount included in the family's annual income which is specifically derived from assets (i.e., interest derived from saving accounts, dividends, interest portions or sale of property, net income from rental of property, etc.), and;
2. Calculate the dollar amount resulting from multiplying the value of the family's total assets based on the current passbook savings rate, as determined by HUD. The PHA must then use the **larger** of the dollar amounts obtained from these two separate calculations in its final computation of the family's Annual Income. The resultant amount is to be included with other income sources to derive the total family income.

**D. The Total Tenant Payment** shall be the higher of the following, rounded to the nearest dollar:

1. 30 percent of monthly Adjusted Income;

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2. 10 percent of monthly Annual Income; or,
3. The minimum rent established by the PHA.

The Total Tenant Payment shall not be increased by more than 10 percent during any twelve month period as a result of redefinition or changes in government regulations. However, Total Tenant Payment may be increased by more than 10 percent during any twelve month period to the extent that the increase is solely attributable to increases in income.

**E.** Adjusted income is calculated by taking the family's annual income and any or all of the following deduction for which it is eligible:

1. A \$480.00 deduction for each dependent (i.e., each family member (other than head, spouse, or foster children) who is either under 18 years of age, is a full-time student of any age and disabled or handicapped).
2. The annual amount of verified medical expense that exceeds three percent of the family's annual income, for families that qualify as "elderly families" or "disabled families".
3. Amounts of reasonable child care expenses for children age twelve (12) and under incurred to the extent the amount allowed does not exceed the income received by the applicant/participant from employment for which these expenses are incurred, or to allow a family member to attend school.
4. Disability Assistance Expenses to pay for care attendants and/or auxiliary apparatus for disabled family member(s) which enable a family member (including the disabled member) to work. The amount allowable as a deduction is the amount that exceeds 3% of Annual Income and cannot exceed the amount earned. Where there are both, medical and disability assistance expenses, the deduction would equal the total of both amounts, less 3% of annual income.

### **INCOME INCLUSIONS AND EXCLUSIONS**

**Reference:** *Housing Choice Voucher Program Guidebook; Chapter 5: Eligibility and Denial of Assistance; (EXHIBIT 5-2)*

#### **INCOME INCLUSIONS**

- (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 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 a deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (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 net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

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- (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, lotteries, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment (but see No. 13 under Income Exclusions);
- (5) Payments in lieu of earnings, such as unemployment, worker's compensation, and severance pay (but see No. 3 under Income Exclusions);
- (6) Welfare Assistance.
  - a. Welfare assistance received by the household.
  - b. The amount of reduced welfare income that is disregarded specifically because the family engaged in fraud or failed to comply with an economic self-sufficiency or work activities requirement.
  - c. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustments by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare income to be included as income shall consist of:
    - (i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
    - (ii) 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 persons not residing in the dwelling; and
- (8) All regular pay, special pay, and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family, spouse, or other person whose dependents are residing in the unit (but see paragraph (7) under Income Exclusions).

### **INCOME EXCLUSIONS**

- (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 individuals with disabilities, unrelated to the tenant family, who are unable to live alone); [Note: PIH-2012-1 (HA) was issued 01/06/2012 clarified the Income Exclusion of Kinship, Kin-GAP and Other Guardianship Care Payments. The Department determined that kinship care, Kin-GAP, and similar programs funded by states serve as an alternative to foster care placements and that the compensation to participating relatives or legal guardians is comparable to the compensation to foster care parents. Payments for the care of foster children (including foster adults) are exempt from income. Thus, during annual and/or interim reexamination of family income pursuant to 24 CFR § 960.257 for public housing and 24 CFR § 982.516 for Section 8 programs, kinship, Kin-GAP and similar state guardianship care payments are to be excluded from a household's income under 24 CFR § 5.609(c)(2).]
- (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 (but see No. 5 under Income Inclusions);
- (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 by regulation);

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- (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) (a) Amounts received under training programs funded by HUD;
- (b) Amounts received by a person with disabilities 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);
- (c) 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;
- (d) A resident service stipend. This is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the development. This may include, but is not limited to fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time; or
- (e) 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). For example, amounts earned by temporary census employees whose terms of employment do not exceed 180 days (PIH Notices 2000-1; 2008-26; 2009-19; 2010-38).
- (10) Reparations 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 or older (excluding the head of household and spouse);
- (12) Adoption assistance payments in excess of \$480 per adopted child;
- (13) Deferred periodic payments of supplemental security income and social security benefits that are received in a lump-sum payment or in prospective monthly payments;
- (14) 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;
- (15) Amounts paid by a state agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; [Note: Section 102 of the Developmental Disabilities Assistance and Bill of Rights Act(42 U.S.C. 6001(5)). **DEVELOPMENTAL DISABILITY.- (A) IN GENERAL. -The term "developmental disability" means a severe, chronic disability of an individual that-**
  - (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; **114 STAT. 1684 PUBLIC LAW 106-402-OCT. 30, 2000**
  - (ii) is manifested before the individual attains age 22;
  - (iii) is likely to continue indefinitely;



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

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

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

and

(16) Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. A notice will be published in the *Federal Register* and distributed to PHAs identifying the benefits that qualify for this exclusion. Updates will be distributed when necessary. The following is a list of income sources that qualify for that exclusion:

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 submarginal 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.

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3056(f));

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

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

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

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

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

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community

Service Act of 1990 (42 U.S.C. 12637(d));

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

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

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

(17) Earned Income Disallowance for persons with disabilities [24CFR5.617]

(a) Initial Twelve Month Exclusion [24CFR5.617(C)(1)]

(b) Second Twelve Month Exclusion and Phase-In [24CFR5.617(C)2]

(c) Maximum Four Year Disallowance [24CFR5.617 (C) (3)]

There is no minimum rent in the housing programs. The rent is based on the household income in accordance with HUD regulations.

### **Averaging Income**

The HA may average income when the income cannot be anticipated using verified sources for a full 12 months.

### **Income changes from Welfare**

**24 CFR 5.615 (b)**

The HA will not decrease the family's share of the rent when there is a reduction in welfare benefits that is due to fraud or failure to participate in an economic self-sufficiency program or comply with a work activities requirement.

This prohibition on reduction of assistance is applicable only if the welfare reduction is neither the result of the expiration of a lifetime time limit on receiving benefits, nor a situation where the family has complied with welfare program requirements but cannot obtain employment (e.g., the family has complied, but loses welfare because of a durational time limit such as a cap on welfare benefits for a period of no more than two years in a five year period).

### **Minimum Income**

There is no minimum income requirement.

### **Pro-ration of Assistance for "Mixed" Families**

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

### **Utility Allowance and Utility Reimbursement Payments**

The Utility Allowance is not a payment issued to the family (except as noted below). It is intended to help defray the cost of utilities not included in the rent and is included in the calculation of the family's rent to the landlord. A Utility Reimbursement payment is made to the participant family in the amount by which the HAP payment exceeds the rent to owner. When there is a Utility Reimbursement, the HA pays the full amount of rent to the owner and sends the participant family, a utility reimbursement payment. The Housing Authority has the discretion to send the utility reimbursement to the utility company should this be a viable option. This occurs only rarely, usually when a participant family has no income.

Chapter 7

VERIFICATION PROCEDURES

**INTRODUCTION**

HUD regulations (24 CFR 982.516(a)) require that the factors of eligibility and Total Tenant Payment (TTP) be verified by the HA. Applicants and program participants must furnish proof of their eligibility whenever required by the HA, and the information they provide must be true and complete. The HA's verification requirements are designed to maintain program integrity. This chapter explains the HA's procedures and standards for verification of preferences, income, combined assets exceeding one thousand dollars (\$1000.00), allowable deductions, family status, and changes in family members. The HA will ensure that proper authorization from the family is always obtained before making verification inquiries.

**A. RELEASE OF INFORMATION**

The family 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.

A copy of the release of information will be provided to a family member upon request.

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 requested by the HA or HUD.

**B. METHODS OF VERIFICATION**

**PIH Notice 2010-19 (HA) & 24 CFR 5.233**

The PHA will verify information through the six methods of verification acceptable to HUD in the following order:

**Level Verification Technique Ranking**

- 6) Upfront Income Verification (UIV)-Highest** (Mandatory) using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)
- 5) Upfront Income Verification (UIV)** using non-HUD system-**Highest** (Optional)
- 4) Written third Party Verification-High** (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 **and** is unable to provide acceptable documentation to support dispute)
- 3) Written Third Party Verification Form-Medium-Low** (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) Oral Third Party Verification-Low** (Mandatory if written third party verification is not available)
- 1) Tenant Declaration-Low** (Use as a last resort when unable to obtain any type of third party verification)

### **Third Party Verification Techniques**

**Upfront Income Verification (UIV) (Level 6/5):** The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.

It should be noted that the EIV system is available to all PHAs as a UIV technique. PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

\*\*For each new admission (form HUD-50058 action type 1), the PHA is required to do the following: **i.** Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and **ii.** Print and maintain a copy of the EIV Income Report in the tenant file; and **iii.** Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

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

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

For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third party verification form or the best available information.

**Written Third Party Verification Form (Level 3):** Also, known as traditional third party verification (a standardized form to collect information from a third party source). PHAs send the form directly to the third party source by mail, fax, or email.

It is the Department's position that the administrative burden and risk associated with use of the traditional third party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

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**Oral Third Party Verification (Level 2):** Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family. PHA staff should document in the tenant file, the date and time of the telephone call, the name of the person contacted and telephone number, along with the confirmed information.

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

**Non-Third Party Verification Technique Tenant Declaration (Level 1):** The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other verification techniques. When the PHA relies on tenant declaration, the PHA must document in the tenant file why third party verification was not available.

All original documents will be stamped (or notated) "**Viewed Original**" and imaged into the family file. Original documents will be photocopied and returned to the applicant/participant if specifically requested and at PHA discretion. When documents cannot be photocopied, staff viewing the documents will annotate the file accordingly. A faxed authentic document from the source will be considered as an original document.

### **C. COMPUTER MATCHING**

In addition to EIV, the HA utilizes computer matching with the Department of Social Services (DPSS), and the INS SAVE system. Other computer matching agreements with federal, state, and local government agencies will be utilized if available and cost-effective.

### **D. ITEMS TO BE VERIFIED**

All eligibility factors will be verified, such as waiting list preference, income, deductions and exclusions, combined assets exceeding one thousand dollars (\$1000.00), and household composition.

### **E. VERIFYING NON-FINANCIAL FACTORS**

#### **Verification of Legal Identity**

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

#### **Family Relationships**

The HA will require familial relationship verification as appropriate and necessary.

#### **Verification of Permanent Absence of Adult Member**

If an adult member who was formerly a member of the household is reported permanently absent by the family, the HA will require verification of the new address.

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### **Verification of Change in Family Composition**

The HA may verify changes in family composition (either reported or unreported). Third party verification procedures will be used.

### **Verification of Disability**

Third party verification procedures will be used to document permanent disability status.

### **Verification of Citizenship/Eligible Immigrant Status**

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

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 any family member fails to provide and sign as required, the family may be denied or terminated from assistance.

If the HA determines that a family member has knowingly permitted an individual who is not eligible for assistance to reside in the family's unit, the family's assistance will be terminated, unless the ineligible individual has already been considered in prorating the family's assistance.

### **Verification of Social Security Numbers**

All applicants and participants are required to disclose a social security number. PHAs will not need to re-verify previously disclosed valid SSNs. PHAs may rely on documentation of the SSN provided by another government agency (federal or state). For the addition of new household members at least 6 years of age or under the age of 6 and who **has an assigned SSN**, the tenant must disclose the SSN and provide documentation of the SSN to the PHA at the time of request to add new household member or during interim re-exam. The new household member **cannot** be added to the family composition until the family has complied with SSN disclosure and verification requirements. Addition of new household members under the age of 6 **and no assigned SSN**, are included as household members and entitled to benefits and the Head of Household is given 90 days to provide documentation of the SSN. Extensions may be given due to unforeseen circumstances.

### **Verification of Reasonable Accommodation**

Reasonable Accommodation requests for families will be considered when a family includes a person with disabilities. The person with a disability, or guardian or responsible party of the person with a disability, must submit a written Reasonable Accommodation request. In cases where a separate bedroom or live-in aide is requested because of reasonable accommodation, the Housing Authority will verify the need through third party verification from the patient's designated licensed professional.

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The HA will approve the exception as a reasonable accommodation if the family demonstrates a nexus to the disability is present to make the program accessible to and usable by the family member with a disability. Verification of the need must be provided annually on a Housing Authority approved form. In addition, requests involving separate bedrooms for medical equipment will be verified at the time of a participant's annual inspection or a special inspection may be conducted after an initial lease up to ensure that program funds are being used for the purpose in which they were intended.

### **Verification of Request for Exception to the Zero Tolerance Policy**

If a family member with criminal activity meets the requirements to be granted an exception to the Housing Authority of the County of Riverside's Zero Tolerance Policy (see Appendix C), they may complete a Request for Exception to Zero Tolerance Policy form to be reviewed by an established committee. In some instances, verification such as a police report, proof of completion of diversion, etc. may be required. Victims of domestic violence, date violence, sexual assault, or stalking requesting an exception to the Zero Tolerance Policy will be required to complete HUD Form 50066 "Certification of Domestic Violence, Date Violence, Stalking" and return it to the HA within 14 days of request.

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**Chapter 8**

**VOUCHER ISSUANCE AND BRIEFINGS**

**INTRODUCTION**

The HA's objectives are to provide families selected to participate with the tools to help them be successful in obtaining an acceptable housing unit, and to give them sufficient knowledge to derive maximum benefit from the program and to comply with program requirements. When families have been determined to be eligible, the HA will conduct a mandatory briefing to ensure that families understand how the program works. The briefing will provide a broad description of owner and family responsibilities, HA procedures, and how to lease a unit. The family will also receive a briefing packet that provides more detailed information about the program. 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**

When funding is available, the HA will issue Vouchers to applicants who have been determined eligible. The issuance of Vouchers must be within the dollar limitations set by the Annual Contributions Contract (ACC) budget.

**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 as well as participants that utilize portability and transfer into the Housing Authority of the County of Riverside's jurisdiction (port-ins).

**Briefing Packet**

The documents and information provided in the briefing packets for the Voucher programs will comply with all HUD requirements.

The briefing packet includes owner identification documents containing private information, that once submitted to the HA, will not be considered part of the participant file.

The HA may conduct other types of briefings such as relocation and portability briefings for families, and owner briefings.

**Other Information to be Provided at the Briefing**

Family and owner responsibilities are explained to the new applicant and/or port-in client. In addition to literature and the HA's website, applicants and owners may request specific clarification about program issues from the assigned Housing Specialist or Supervisor.

Guidance and materials are offered to assist the family in selecting a unit. Issues to be considered include: Proximity to employment, public transportation, schools, shopping and the accessibility of services. Applicants are encouraged to evaluate the prospective unit, such as the condition, whether the rent is reasonable, average utility expense, energy efficiency and security.

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The Housing Authority of the County of Riverside uses a web-based program which gives the family access to owners who wish to rent their properties to recipients of the program. They may also pick up listings in person at both Housing Authority offices. The family will have access to a list of landlords willing to lease to assisted families and non-profit organizations willing to assist in the housing search. In providing this courtesy list, the HA does not endorse any particular unit or landlord. There is no guarantee that the rents listed are reasonable or approvable, nor any guarantee that the units will pass Housing Quality Standards.

The HA will provide information on the advantages to moving to areas of low poverty. The family will be encouraged to choose a unit carefully and after due consideration.

The family will receive information about the Family Self-Sufficiency program and its advantages.

Families with three or more minors and families with disabled family members will receive additional assistance in locating units suitable for their housing needs.

Owners and participants will be instructed that side payments or any payment not approved by the HA will not be allowed. Acceptance of side payments or additional rent will be grounds for termination from program.

### **C. ENCOURAGING PARTICIPATION IN LOW POVERTY AREAS**

During its tenant briefings the Housing Authority encourages families to move to low poverty areas by explaining the advantages of moving to an area that may offer high-quality housing, education and employment opportunities. To increase the available housing stock to its clients, and to facilitate the opportunity for owners and tenants to gather for the purpose of leasing a unit, the HA convenes periodic Rental Fairs at its main office. This gives current participants who are in the relocation process, as well as families newly released from the waiting list, the opportunity to become acquainted with property owners with available units. In addition, landlords are invited to list their property via the Rental Listing available to all voucher holders. The HA offers Landlord Workshops in order to expand its network of property owners and/or managers. The purpose of these workshops is to make special efforts to provide outreach and education to landlords who may not be familiar with the Section 8 program.

### **D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION**

The HA provides the family with the HUD Discrimination Complaint form and offers to assist in the completion of the form as well as directing the family to report suspected discrimination to the Fair Housing Council.

### **E. ASSISTANCE TO FAMILIES WITH DISABILITIES.**

The HA assists families with disabilities in locating accessible units by:

1. Providing a rental listing (which includes handicapped accessible units) of owners willing to rent to Section 8 participants, and
2. Providing a listing of service agencies that provide services to help the disabled, and
3. Providing reasonable accommodation by extending the term of the voucher, if warranted.

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### **F. SECURITY DEPOSIT REQUIREMENTS**

**(24 CFR982.313)**

Security deposits charged by owners may not exceed those charged to unassisted tenants or the maximum prescribed by state or local law.

### **G. TERM OF VOUCHER**

**(24 CFR 982.303)**

During the briefing session, each household will be issued a Housing Choice Voucher which represents an agreement between the HA 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**

For participants who are relocating, Vouchers are valid for a period of 60 calendar days from the last date that assistance was paid. For those families that have an initial Voucher, the term of the Voucher is also 60 calendar days.

If the family needs and requests an extension of the Voucher term as a reasonable accommodation to make the program accessible to and usable by a family member with disabilities, the HA may extend the Voucher term up to the term reasonably required for that purpose. An extension of up to 60 days may be granted. An extension of the term is granted by HA notice to the family.

If the family requests an extension for the Voucher due to other good cause such as illness of a household member, death of a family member, natural disaster, disapproval of a unit by the HA (i.e. the unit that RTA was submitted for fails to meet HQS, proof of ownership issues, proof of permits for additions/deletions) or other unforeseeable circumstances, the request will be reviewed along with the documentation provided by the family regarding the circumstances requiring the extension. An extension of the term may be granted by HA supervisor and notice to the family.

The family will not be entitled to a review or a hearing if the Voucher has expired. If the family is currently assisted, they may remain as a Section 8 participant in their unit if there is an assisted contract in effect.

#### **Suspensions**

Suspensions are allowed for reasonable accommodation of persons with disabilities. The HA may grant a suspension for any part of the period after the family has submitted a Request for Tenancy Approval up to the time when the HA approves or denies the request.

### **H. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS** (CFR 982.315)

Family break-up.

(a) The PHA has discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up. The PHA administrative plan must state PHA policies on how to decide who remains in the program if the family breaks up.

(b) The factors to be considered in making this decision under the PHA policy may include:

(1) Whether the assistance should remain with family members remaining in the original assisted unit.

(2) The interest of minor children or of ill, elderly or disabled family members.

(3) Whether family members are forced to leave the unit as a result of actual or threatened physical violence against family members by a spouse or other member of the household. (*VAWA protects the victim from losing their HUD assisted housing*).

(4) Other factors specified by the PHA: (Such as, recommendations of social service professionals).

(c) If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the PHA is bound by the court's determination of which family members continue to receive assistance in the program.

~~In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families, and the families cannot agree as to which family unit is to receive the assistance, and there is no determination by a court, the HA shall consider the following factors to determine which family member will continue to be assisted:~~

- ~~1. Which family member has custody of dependent children.~~
- ~~2. Which family member was the head of household when the Voucher was initially issued (listed on the initial application).~~
- ~~3. Which family contains elderly or disabled members.~~
- ~~4. Whether domestic violence was involved in the breakup. (*VAWA protects the victim from losing their HUD assisted housing*).~~
- ~~5. Which family members will remain in the unit.~~
- ~~6. Recommendations of social service professionals.~~

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, the HA will terminate assistance on the basis of failure to provide necessary information.

**I. REMAINING MEMBER OF TENANT FAMILY-RETENTION OF VOUCHER**

To be considered the remaining member of the tenant family, the person must be an eligible immigrant, have been previously approved as part of the nucleus family by the HA and be currently living in the unit.

A live-in aide, 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 member:

1. The court has to have awarded emancipated minor status to the minor, or
2. The HA has to have verified that the Department of Social Services and/or the Juvenile Court

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has arranged for another adult to be brought into the assisted unit to care for the child/children for an indefinite period.

A reduction in family size may require a reduction in the authorized payment standard.

Retention of a voucher by the remaining member currently living in the unit will only be approved as a result of the death of the Head of Household, or removal of the Head of Household to an assisted living environment, or government facility. To be considered the remaining member of the tenant family, the person must have been previously approved as part of the nucleus family by the HA. In such a situation the remaining family member will retain the voucher.

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**Chapter 9**

**REQUEST FOR TENANCY APPROVAL (RTA) AND CONTRACT EXECUTION**

**INTRODUCTION**

After a family is issued a Voucher, they may search for a unit anywhere within the jurisdiction of the HA, or outside of the HA's jurisdiction (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 HA. This chapter defines the types of eligible housing, the HA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of RTA's.

**A. REQUEST FOR TENANCY APPROVAL (RTA)** (24 CFR 982.302)

The RTA and a copy of the proposed lease must be submitted by the family prior to the expiration of the Voucher.

Both the owner and Voucher holder must sign the RTA. The HA will not permit the family to submit more than one RTA at a time.

The following timeline must be observed for all incoming RTAs:

- The unit must be ready for inspection **no later than** 14 calendar days from the date the RTA is submitted. Ready for inspection means that ownership is verified, rent is negotiated (if needed) to ensure unit affordability, rent is determined reasonable, **all** utilities are in service and permits (if any) are submitted by the owner for any additions/improvements to the unit.
- The initial inspection will be conducted by HA staff within 6 business days from the date the unit is ready or from the date the RTA is received by the HA, whichever is later.
- If the unit fails the initial inspection, repairs must be made within 10 calendar days and a repair inspection will be conducted by HA staff within 4 business days from the date the HA is notified that repairs are completed.
- The unit must pass inspection **no later than** 20 calendar days from the initial inspection or the date the unit is ready, whichever is later.
- The owner must provide a signed HAP Contract and signed Lease Agreement to the HA either on the date of the passed inspection or **no later than** 7 calendar days from the date the tenant takes occupancy of the unit.
- The tenant must enter into a Lease Agreement **and** take occupancy of the unit **no later than** 60 days from the date the ~~RTA is submitted~~ inspection has passed.

The RTA will be denied if the unit is not ready for inspection within 14 calendar days and/or if the unit does not pass inspection within ~~20~~ 30 calendar days and/or if the owner does not provide the signed HAP Contract and signed Lease within 7 calendar days, and/or if the tenant does not take occupancy of the unit within 60 days from the date the ~~RTA is submitted~~ inspection has passed.

The RTA will also be denied if the owner and/or tenant do not provide all HA required

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information within the requested time frames. The voucher term remains the same unless the HA approves an extension ~~with cause~~ as a reasonable accommodation and reflects the extension date on the voucher and the RTA packet.

HUD regulations prohibit the HA from approving a unit if the owner is the parent, child, grandparent, grandchild, sister, brother of any member of the tenant family, unless the HA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. **(24 CFR 982.306 (d))**

### **Review of the RTA**

**(24 CFR 982.507 and 982.508)**

HA staff will review the rent amount to ensure the rent is reasonable based upon current rents for comparable unassisted units. The voucher program rule requires that the HA's system for determining comparability and reasonable rent take nine factors into consideration: location, size, type, quality and age, amenities, housing services and maintenance, and utilities provided by the owner under the lease. Also, ~~and~~ that it is affordable as determined by HUD regulations for the family. Affordable for the family means that the family's share of the rent plus the current utility allowance cannot exceed 40 percent of the household's adjusted monthly income. If the unit does not meet the affordability criteria, the HA will attempt to negotiate the rent with the owner. If the owner does not agree on the contract rent after the HA has tried and failed to negotiate a revised rent, the HA will inform the family and owner that the RTA is disapproved. If the voucher has not expired the HA will issue another RTA to the family.

Owners must submit their own lease with the HUD lease addendum attached and a property management agreement (if applicable). The HA may review the lease to ensure compliance with HUD regulations, state and local laws. Responsibility for utilities, appliances and optional services must correspond to those provided on the RTA.

If the HA determines that the RTA cannot be approved for any reason (see above paragraph A of this section) the RTA will be disapproved and the landlord and the family will be notified in writing.

If the HA determines that the RTA is approvable, staff will schedule and perform the initial inspection within six (6) business days of receipt of the RTA, if the unit is currently ready for inspection, or at the earliest possible time when the unit is not currently ready for inspection. Any variance from this time frame will be documented in the family's file.

### **Residence Limitations**

**Interest in Unit:** The owner may not reside in the assisted unit. The owner may reside in a unit in which a voucher family is participating in a "shared housing" type of assistance. However, the owner may not be a resident owner if the Section 8 voucher participant is related to the owner.

**Relative Owner:** The HA must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the HA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities (24 CFR 982.306 (d)).

**D. INFORMATION TO OWNERS**

The HA is required to provide prospective owners with the address of the applicant and the names and addresses of the current and previous landlords if known. The HA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The HA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. They will be encouraged to screen applicants for rent payment history, eviction history, damage to units, and other factors related to the family's suitability as a tenant.

**E. OWNER DISAPPROVAL**

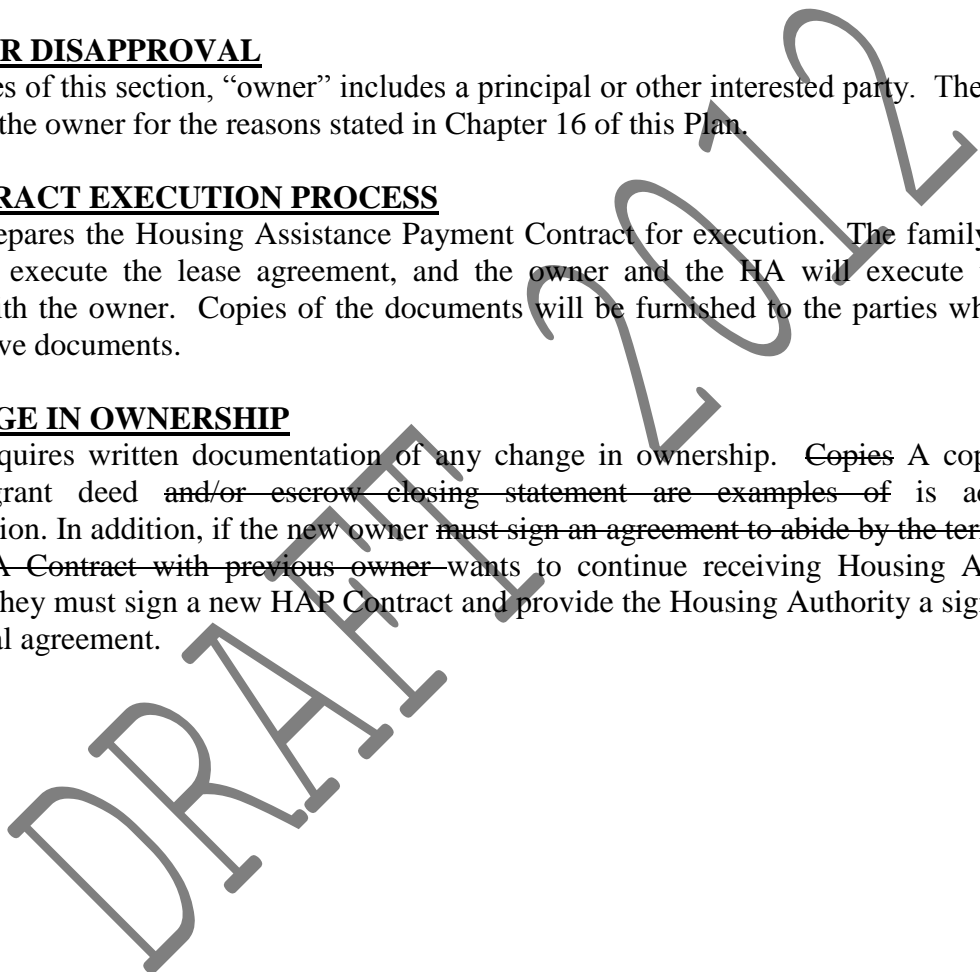
For purposes of this section, "owner" includes a principal or other interested party. The HA will disapprove the owner for the reasons stated in Chapter 16 of this Plan.

**F. CONTRACT EXECUTION PROCESS**

The HA prepares the Housing Assistance Payment Contract for execution. The family and the owner will execute the lease agreement, and the owner and the HA will execute the HAP Contract with the owner. Copies of the documents will be furnished to the parties who signed the respective documents.

**G. CHANGE IN OWNERSHIP**

The HA requires written documentation of any change in ownership. ~~Copies~~ A copy of the recorded grant deed ~~and/or escrow closing statement are examples of~~ is acceptable documentation. In addition, if the new owner ~~must sign an agreement to abide by the terms of the original HA Contract with previous owner~~ wants to continue receiving Housing Assistance Payments, they must sign a new HAP Contract and provide the Housing Authority a signed lease and/or rental agreement.





**Chapter 10**

**HOUSING QUALITY STANDARDS AND INSPECTIONS**

**INTRODUCTION**

**(24 CFR 982.404)**

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS inspections are required both at initial occupancy and annually during the term of the lease. HQS inspections apply to the building and premises, as well as the unit.

These minimum standards may be enhanced by the HA, provided that by doing so the HA does not overly restrict the number of units available for lease under the program. The use of the term “HQS” in this Administrative Plan refers to the combination of both HUD and HA requirements. This chapter describes the HA’s procedures for performing HQS and other types of inspections, and 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.

**A. TYPES OF INSPECTIONS**

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. All utilities and appliances must be in service before the unit will pass HQS.

There are five types of inspections the HA will perform:

1. Initial/Move-in: Conducted within six (6) business days of receipt of Request for Tenancy Approval or as soon as possible from the date the unit will be ready for inspection.
2. Annual: Must be conducted within 12 months of the last inspection date.
3. Special/Complaint: At the request of an owner, family, agency or third-party.
4. Move-Out/Vacate: As a courtesy to the owner, the HA may conduct a move-out inspection at the landlord’s written request, if damage is a result of the tenant not meeting their obligations and such damage would cause tenant to lose their assistance.
5. Quality Control: Quality control inspections are conducted in an amount necessary to meet HUD requirements.

**B. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS**

The HA adheres to the acceptability criteria in the program regulations and HUD Inspection Manual.

Additions to HQS:

- Modifications or adaptations to a unit must meet applicable HQS and building codes ie, must provide copy of signed off final city building permit for additions an/or removed structures.
- All emergency systems must be operable (i.e., pull cords for elderly/disabled complexes).
- Security bars/window bars must have a quick release mechanism.
- Two Earthquake straps (one in the top third and one in the bottom third) are required for all hot water heaters. An exception would be in the case of electric water heaters located inside a cupboard, typically under a countertop and commonly referred to as 30 gallon stubbies (which are half the size of a normal water heater). In these instances, one

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- earthquake strap is preferred but Plumbers tape may be used to secure the water heater.
- A functional cooling system must be in all units located east of, and including Palm Springs.

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- One good screen is required on one window in each room.
- All exterior doors must have working deadbolts (inside cannot be keyed – must be keyless) and a doorknob.
- Certified Carbon Monoxide Detectors must be installed in all single family dwellings (1 per floor level) having a fossil fuel burning heater or appliance (such as a gas stove, or oven), fireplace or attached garage. (SB183)

### **C. INSPECTIONS**

**24 CFR 982.405 (a)**

The HA conducts an inspection in accordance with Housing Quality Standards at least annually, but no sooner than 120 days prior to the anniversary month of the contract. Special or Quality Control inspections may be scheduled between anniversary dates.

The landlord must correct HQS deficiencies that cause a unit to fail unless the fail item is one for which the tenant is responsible. HAP payments will not be made on units that do not meet HQS. The family is responsible for breaches of HQS that are caused by any of the following:

- The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid for by the tenant;
- The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or
- Any member of the household or guest damages the dwelling unit or premises (damage beyond ordinary wear and tear).
- The family fails to allow the HA to inspect the unit at reasonable times with reasonable notice.
- If the family does not contact the HA to reschedule the inspection (with good cause), or if the family misses one inspection appointment, the HA will consider the family to have violated a family obligation, and their assistance may be terminated in accordance with the termination procedure in this Plan.

### **Time Standards for Repairs**

**24 CFR 985.3 (f)**

1. Emergency items that endanger the family's health or safety must be corrected within 24 hours of notification.
2. For non-emergency items, all repairs must be completed as specified by the HA, not to exceed 30 days.
3. For major repairs, the Housing Specialist may approve an extension beyond 30 days.

In accordance with the Notice to Repair or Certified Repair Notice, the contract will be terminated if the unit is not in compliance with HQS. If the tenant is the responsible party, a Pre-termination of Assistance Appointment letter will be sent. No payments will be made to the owner after the contract has been terminated.

### **D. EMERGENCY REPAIR ITEMS**

**24 CFR 982.404 (a) (3) (b) (2)**

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 Housing Specialist.

- Lack of security for the unit
- Waterlogged ceiling in imminent danger of falling

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- Major plumbing leaks or flooding
- Natural gas leak or fumes
- Electrical problem which could result in shock or fire
- Utilities not in service
- No running hot water
- Broken glass where someone could be injured
- Obstacle which prevents tenant's entrance or exit
- Lack of at least one functioning toilet
- Any other item deemed an immediate health or safety hazard

In those cases where there is leaking gas or a potential of fire or other threat to public safety, and the responsible party cannot be contacted, the proper authorities will be notified by the HA.

### **E. INITIAL HQS INSPECTION**

An Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS as defined by HUD regulations and this Plan.
- Determine if the Rent to Owner is reasonable and document the information to be used in that determination.

Also see Chapter 9, paragraph A, for Initial HQS inspection guidelines and timelines.

### **F. SPECIAL/COMPLAINT INSPECTIONS**

If at any time a family, owner, agency, or third party notifies the HA that the unit does not meet Housing Quality Standards, the HA will conduct an inspection. Move-Out/Vacate: As a courtesy to the owner, the HA may conduct a move-out inspection at the landlord's written request, if damage is a result of the tenant not meeting their obligations and such damage would cause tenant to lose their assistance.

### **F. QUALITY CONTROL INSPECTIONS**

**24 CFR 982.405 (b)**

The Housing Supervisor or designee will perform Quality Control inspections, in an amount necessary to meet HUD requirements. The purpose of Quality Control inspections is to ascertain that Housing Specialists/Program Assistants are conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in the application of HQS.

**Chapter 11**

**OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS**

**INTRODUCTION**

The HA is responsible to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. When the HA has determined that the unit meets the minimum HQS, that the lease is approvable, and that the rent is reasonable, it will enter into a Housing Assistance Payment Contract with the owner. This chapter explains the HA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

**A. OWNER PAYMENT IN THE VOUCHER PROGRAM**

The Housing Choice Voucher formula for determining maximum subsidy is the lower of the Payment Standard or the Gross rent (contract rent plus current utility allowance) for the unit minus the family's Total Tenant Payment.

- The maximum subsidy for each family is determined by the payment standard for the Voucher size issued to the family (or the gross rent as stated above), less 30 percent of the family's monthly adjusted income. The actual subsidy level could be less if the family is required to pay the minimum total tenant payment (10 percent of the family's monthly income).
- The Voucher size issued to the family is based on the HA's subsidy standards. The payment standard for the family is based on the lesser of the payment standard for the Voucher size issued or the payment standard for the number of bedrooms of the selected unit.
- The housing assistance payment to the owner is the lesser of the subsidy described above or the rent charged by the owner.

**B. LATE PAYMENTS TO OWNERS**

The HA must pay the housing assistance payment promptly when due to the owner in accordance with the HAP contract. Late payments to owners shall be the lesser of 1) the late payment as stated in the lease between the owner and the tenant, or 2) \$50.00. However, the HA shall not be obligated to pay any late payment penalty if HUD determines that late payment by the HA is due to factors beyond the HA's control. The HA has determined that the HAP payment by the HA is deemed received by the owner upon mailing by the HA. Direct deposit is available to landlords to assist in the prompt receipt of HAP payments.

The HA may only use the following sources to pay a late payment penalty from program receipts under the consolidated ACC: administrative fee income for the program or the administrative fee reserve for the program. The HA may not use other program receipts for this purpose.

**C. MAKING PAYMENTS TO OWNERS**

Once ownership is verified and the HAP Contract is executed, the HA begins processing monthly payments to the landlord. The Housing Assistance Payment checks to owners will be processed by the Housing Authority Accounting Department.

**D. EXCEPTION PAYMENT STANDARD**

The HUD field office may approve an exception payment standard up to 120% of the FMR for all units of a given size leased by families in an exception area.

An area exception payment standard may not exceed 120% of the FMR. An area exception payment standard will not be approved unless HUD determines that an exception rent is needed either:

- To help families find housing outside areas of high poverty; or
- Because Voucher holders have trouble finding housing for lease under the program within the term of the Voucher

The HA may approve an exception payment standard up to 110% of the FMR when it has determined that it is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

**E. RENT REASONABLENESS DETERMINATIONS** **24 CFR 982.507**

Rent reasonableness determinations are made when units are placed under HAP Contract for the first time, before any increase in rent to the owner, if there is a 5% decrease in the published FMR, and if directed by HUD.

The HA determines rent reasonableness through a database of unassisted rental units in all bedroom sizes throughout the county. Staff is required to add units to this database monthly. Newspapers, rental magazines, calls to property owners and managers and the Internet are some of the sources used to add comparables to the database.

The HA will consider the location, quality, size, unit type, age of the unit, amenities, services, maintenance and utilities provided by the owner in determining rent reasonableness.

A printout showing the rental amount of comparable units in the area is put into the family's file, signed and dated by the Housing Specialist, documenting the data used to determine rent reasonableness.

**F. PAYMENT STANDARDS AND ADJUSTMENTS** **24 CFR 982.503**

The subsidy amount is based on a payment standard set by the HA. The HA will review the Payment Standard annually to determine whether an adjustment should be made for some or all unit sizes. The Payment Standard will be reviewed according to HUD's requirements and this Plan, and if an increase is warranted, the Payment Standard will be adjusted within 90 percent to 110 percent of the current HUD-published Fair Market Rent. However, should a HUD waiver be granted to an amount that falls outside the basic range of 90-110%, the HA will adopt the new range as needed to meet funding allocations.

The HA may approve an exception payment standard up to 110% of the FMR when it has determined that it is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. The HA may apply to HUD Headquarters to approve a payment standard up to 120% of the FMR if it determines that the increase is needed

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as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8.

The HA may use some or all of the measures below in making a determination whether an adjustment should be made to the Payment Standards.

- **Lowering of the Payment Standard**

Statistical analysis may reveal the Payment Standard should be lowered, in which case the Payment Standard should not be less than 90 percent of the current FMR. If the FMR is lowered, the Payment Standard will be decreased in accordance with HUD regulations.

- **Financial Feasibility**

Before increasing the Payment Standard, the HA may review the budget and the project reserve to determine the impact projected subsidy increases would have on available funding for the program and number of families served.

For this purpose, the HA will compare the number of families who could be served under higher Payment Standards with the number assisted under current Payment Standards.

### **G. RENT INCREASES**

**24 CFR 982.507**

Owners may not request rent increases to be effective prior to the expiration of the initial term of the lease. An owner request for a rent increase must be in accordance with the lease, state law, the contract and HUD regulations. The owner must notify the PHA of any proposed rent increase at least 60 days before the participant's annual re-certification prior to ~~changes in the amount of the rent to the owner at least sixty days before any such changes go into effect~~ (see HAP Contract 15-d). The requested rent increase must be reasonable for market conditions. If the HA disapproves the owner's request for a rent increase because the rent is not reasonable, the family may request that the HA issue the family a Voucher to enable them to relocate.

**Chapter 12**

**REEXAMINATIONS**

**INTRODUCTION**

HUD requires the HA to re-certify the income and household composition of all families at least annually. In addition, the HA is required to inspect the assisted unit at least annually, and to process requests for rent adjustments. These activities must be coordinated to ensure that they are completed in accordance with the regulations. It is a HUD requirement that families report all changes in household composition and income at the annual reexamination. The HA decides what other changes must be reported, and the procedures for reporting all income. This chapter defines the HA's policy for conducting annual reexaminations and coordinating the annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

**A. ANNUAL RECERTIFICATION/REEXAMINATION**

**24 CFR 982.516**

**Requirement to Attend**

All household members are required to attend scheduled interviews. Failure to appear for a scheduled interview is cause to terminate assistance for failure to comply with the family obligation of providing information to the HA.

**Documents Required from the Family**

Failure to provide documents required by the HA is a violation of a family obligation and grounds for termination of assistance. The family will be given 10 calendar days to provide requested information and/or documents.

The HA may make exceptions to these policies if the family is able to document an emergency situation that prevented them from attending a scheduled appointment or providing requested information.

**Tenant Rent Increases**

If the tenant rent increases, a notice of at least 30 days is mailed to the family prior to the effective date of the change whenever possible. If the owner has served the tenant with a Rent Increase Notice, that notice shall serve as the notice to the tenant of the increase in their rent.

If there has been a misrepresentation or a material omission by the family, the family may be terminated and/or required to repay any overpaid HAP to the HA.

**Tenant Rent Decreases**

If tenant rent decreases, it will be effective on the first day of the month after the written notification of the change. If the family causes a delay in the processing of the reexamination, the rent change will be effective on the first day of the month following completion of the reexamination.



**B. REPORTING INTERIM CHANGES**

The HA requires program participants to report all changes in household composition or income in writing within 10 days of the change to the HA. This includes additions due to birth, adoption and court-awarded custody. The family must obtain HA and owner approval prior to all other additions to the household.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular reexamination after moving into the unit.

**Interim Reexamination Policy**

Participants must report all changes in income, assets, and family household composition in writing within 10 days of change. Changes will be processed if they are anticipated to continue for sixty (60) or more days.

If it has been determined that a Tenant has misrepresented to PHA Management the facts upon which the rent is based, so that the rent paid is less than should have been charged, then the increase in rent shall be made retroactive to the date the change should have been made. If Management determines that the Tenant has been subsidized through the Tenant's willful misrepresentation of Income, Assets, or Family Composition, Management shall notify the Tenant that Rental Assistance will be terminated, and that the Tenant has the right to request a Hearing.

**Decreases in Income**

The HA will process the change if the decrease in income is \$100 monthly or more and anticipated to continue for sixty (60) or more days.

**Increases in Income**

The HA will conduct interim reexaminations for participants who have an increase in income of \$100 monthly or more and anticipated to continue for sixty (60) or more days.

**ZERO INCOME FAMILIES:**

Families reporting no household income will be asked how the family pays for necessary living expenses. If it is determined that the family is receiving regular monetary or non-monetary contributions and/or gifts from non-household members, the value of these gifts will be annualized to estimate household income. If it is determined that the family receives no income from gifts, contributions, or any other source, the family will be required to complete, sign and date the Certification of Zero Income Form . Such families will be required to provide documentation to HA every 30 days that all normal household expenses such as food, utility bills, telephone bills, cable bills, car payment, and car/ life insurance payments are being paid and documentation showing where the money comes from to pay these expenses. Zero income families will be reevaluated every 30 days to determine if there are any new sources of income including an inquiry to the Department of Labor. Failure to provide required information may be cause for termination of rental assistance. Families reporting only excluded income will be subject to an interim revision if a source of non-excluded income is reported.

**HA Errors**

When the HA finds that an error has been made, an interim reexamination will be conducted to correct the error. A minimum of thirty (30) days notice will be given to Tenant and Owner if the correction results in a decrease in the HAP payment.

**Administrative Errors and Omissions:** It is crucial that the PHA establish and maintain a high degree of accuracy in administering its Program. From time to time minor administrative errors or omissions may be discovered which require immediate PHA action. Administrative errors, omissions, or mistakes made by PHA Staff, Owners, or Tenant may include.

**1. PHA Errors and Omissions (examples):**

- a.** Errors in calculations of Assistance levels;
- b.** Inappropriate determinations of Family eligibility;
- c.** Miscalculation of Gross Rents; or,
- d.** Approval of Gross Rents above allowable limitations.

**2. Owner Errors and Omissions (examples):**

- a.** Not informing the PHA that the Tenant has vacated the unit.
- b.** Not informing the PHA that an error in contract rent has occurred within 10 days of receiving a rent change notification.

**3. Tenant Errors and Omissions (examples):**

- a.** Omission of a particular Asset or Income because of lack of information;
- b.** Miscalculation of Income; or,
- c.** Misinformation regarding Family composition.

**Changes in family size/subsidy standards**

A larger bedroom size will not be issued if a member of the nucleus family moves out and returns as an adult. In these cases, the HA will not approve the addition of household members that would result in overcrowding according to HQS maximum occupancy standards.

For additions to the family in the following cases, the HA will issue the family a relocation Voucher when the change causes overcrowding according to HQS maximum occupancy standards:

- Additions by marriage
- Addition of a minor who is a member of the nucleus family who had been living elsewhere
- Addition of a HA-approved live-in aide
- Addition due to birth, adoption or court-awarded custody
- Addition of long term placement foster care children or adults

**Family Member moves out**

Families are required to notify the HA in writing within 10 days if any family member leaves the assisted household. When the family notifies the HA, they must furnish the following information:

- The date the family member moved out
- The new address, if known, of the family member
- A statement as to whether the family member is temporarily or permanently absent

**C. TIMELY REPORTING OF CHANGES IN INCOME AND ASSETS**

Families who do not report required changes within time frames established by the HA are considered in violation of a family obligation, and are subject to termination of assistance.

**D. NOTIFICATION OF RESULTS OF REEXAMINATIONS**

The HUD form 50058 will be completed and transmitted as required by HUD.

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**Chapter 13**

**MOVES WITH CONTINUED ASSISTANCE/PORTABILITY**

**INTRODUCTION**

HUD regulations permit families to move with continued assistance to another unit within the HA's jurisdiction, or to a unit outside of the HA's jurisdiction under portability procedures. The regulations also allow the HA the discretion to develop policies which define any limitations on moves. This chapter defines the procedures for moves, both within and outside of the HA's jurisdiction, and the policies and limitations on moves.

A family may move (relocate) to a new unit when the owner has given the family a notice to vacate and the family is eligible for continued assistance or when the family has given proper notice of lease termination and is eligible for continued assistance (see A. Allowable Moves for additional information). A notice of lease termination must be thru the end of a month. Notices to vacate will not be accepted for a mid month move and will be returned so that the tenant and/or owner can reissue a new notice thru the end of a month. All Housing Assistance Payment (HAP) Contracts for new units will be effective on the 1<sup>st</sup> of a month (no mid month effective dates). Special circumstances such as reasonable accommodations for the elderly/disabled will be considered.

**A. ALLOWABLE MOVES**

A family may move to a new unit if:

1. The assisted lease for the old unit has terminated because the HA has terminated the HAP contract for owner breach.
2. The HA has terminated the HAP contract because the family is no longer eligible for the current number of bedrooms.
3. To determine whether the family is eligible for continued assistance, a full reexamination will be done prior to approval of any relocation, unless the Eligibility Questionnaire and verifications in the file are dated within the last 60 days.
4. The owner has given the family a notice to vacate and the family is eligible for continued assistance.
5. The family has given proper notice of lease termination and is eligible for continued assistance.
6. The family:
  - a. has an income change that will result in a Zero HAP at the new assisted unit. In these cases, the contract with the owner will be for a six-month period only (180 days).
  - b. is currently at Zero HAP and must relocate because the current assisted unit is either in foreclosure or up for sale. In these cases, the new contract will only be for the remaining time period left of the original 180 days since the last HAP paid (i.e. the 180 day time period at Zero HAP does not restart and includes but is not limited to the time spent searching for a new unit as well as any inspection time and RTA disapprovals).
7. A mutual agreement has been signed by both the Owner and Tenant. This applies when a participant is requesting to move before the expiration of the lease term or the owner

wishes a tenant to move before the expiration of the lease term.

**B. RESTRICTIONS ON MOVES**

Families will not be permitted to move during the initial term of the lease. Families will not be permitted to move more than once in a 12-month period unless a 6 month lease is in place according 24 CFR 982.309 (a). The HA will deny permission to move if:

- The family owes the HA money
- The family has violated a Family Obligation
- The family is in violation of their lease

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The HA may make exceptions to these restrictions if there is an emergency or safety reason for the move or as a reasonable accommodation for a disabled family member.

### **C. PORTABILITY**

Portability applies to families moving out of or into the HA's jurisdiction within the United States and its territories. Under portability, families are eligible to receive assistance to lease a unit outside of the initial HA's jurisdiction.

### **D. OUTGOING PORTABILITY**

When a family requests to move outside of the HA's jurisdiction, the request must specify the area to which the family wants to move. Portability outside of HACR's jurisdiction will be approved if the family is eligible for continued assistance and if funding is available. The HA may deny a family's request to move under portability if the PHA does not have sufficient funding for continued assistance to support the move in accordance with CFR 982.314 (e)(1) and PIH 2008-43.

If a family, within two (2) weeks of the voucher effective date, requests to transfer their rental assistance (exercise portability) to another jurisdiction, a full sixty (60) day voucher term will be granted.

The Violence Against Women Act of 2005 provides that the family may receive a voucher and move in violation of the lease under the portability procedures if the family has complied with all other obligations of the voucher 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 the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

### **E. INCOMING PORTABILITY**

#### **Absorption or Administration**

The HA will accept a family with a valid Voucher from another jurisdiction and either administer or absorb the Voucher. When administering assistance for the family, a Portability Voucher will be issued with the same start date as the initial HA. The initial HA may grant extensions in accordance with ~~this Administrative Plan~~ and Federal Regulations. All port-in supporting documents are to be received by mail and EIV's must be in a sealed envelope for confidential purposes to ensure HUD compliance. Incoming ports must have a minimum of 30 days left on their voucher for complete processing. Anything less than 30 days will be returned to their initial PHA.

Initially, the HA will issue a subsidy based on the family composition listed in the initial PHA's 50058. The subsidy issued will be based on the receiving HA's current subsidy standards. If the receiving PHA is not absorbing, any changes must be approved by the initial PHA.

**Chapter 14**

**CONTRACT TERMINATIONS**

**INTRODUCTION**

The Housing Assistance Payments (HAP) Contract is the contract between the owner and the HA which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by the HA and the owner, and the policies and procedures for such terminations.

**A. CONTRACT TERMINATION**

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the HA may be terminated by the HA, or by the owner terminating the lease.

No future subsidy payments on behalf of the family will be made by the HA to the owner after the month in which the Contract is terminated. The owner must reimburse the HA for any subsidies paid by the HA for any period after the contract termination date.

If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

**B. TERMINATION OF LEASE BY OWNER**

Upon proper notice, the lease may provide for termination without cause after the initial term of the lease or may terminate by mutual consent between the owner and participant during the initial lease term. In the event that the participant passes away and there are no remaining nucleus family members, the Housing Assistance Payment (HAP) will be paid in full (thru the end of the month) in which the participant becomes deceased. An owner is not eligible to retain any portion of HAP for any time period beyond the month in which the participant became deceased.

If it is during the initial lease term, or subsequent lease term, the owner must provide the tenant a written notice specifying the grounds for the termination of tenancy. A copy of the notice to vacate and verification of the tenant violations must be provided to the HA. If it is *not* during a lease term, the owner must only provide the tenant with a written notice for a time period that is compliant with the lease or rental agreement that was signed with the tenant (i.e. 30 days in most cases). A copy must be provided to the HA. "Good cause" does not need to be demonstrated when the tenant is not in a lease term. If the tenant does not vacate based on the owner's notice, the owner must follow state/local laws to evict the tenant.

The HA will continue to make housing assistance payments until the participant vacates the unit or the eviction is concluded, whichever occurs first. In no instance will a housing assistance payment be made for any period beyond the contract termination date, or for the month

following the month the tenant vacates the unit.

Federal Regulations 24CFR 982.552 (c) Authority to deny admission or terminate assistance (1) Grounds for denial or termination of assistance states, "The PHA may at any time deny program assistance for an applicant or termination program assistance for a participant, for any of the following grounds: (ii) If any member of the family has been evicted from federally assisted housing in the last five years".

**C. TERMINATION OF THE CONTRACT BY HA**

The term of the HAP contract terminates when the lease terminates, when the family vacates the unit, or when the owner has breached the HAP contract.

The HA may also terminate the contract if:

- The HA terminates assistance to the family
- The family is required to move from a unit which is under-occupied or is overcrowded
- Funding is no longer available under the ACC
- The participant has requested their assistance be terminated
- The participant passes away and there are no remaining nucleus family members

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner (24 CFR 982.455).

In the event that funding is no longer available under the ACC, the HA will implement a "first on, first off" policy on terminating families, meaning that those families who have benefited the longest will be the first to be terminated, excluding any disabled and/or elderly families. All efforts will be made to give a family no less than a 90 day notice in order to allow them substantial time to prepare. This policy is consistent with Fair Housing guidelines.

**EVICTIIONS**

The Contract and the Assisted Lease shall provide that the Owner shall not terminate the tenancy except for:

- A.** Serious or repeated violation of the terms and conditions of the lease;
- B.** Violations of Federal, State, or Local Law which imposes obligations on the Tenant in connection with the occupancy or use of the dwelling unit and surrounding premises; or,
- C.** Other good cause as provided in the Lease including, but not limited to, the following:
  1. Failure by the Family to accept the offer of a new Lease by the Owner;
  2. A Family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or property;
  3. Criminal activity by Family members involving crimes of physical violence to persons or property and any illegal drug activity;
  4. The Owner's desire to utilize the unit for personal or family use or for a purpose other than for use as a residential rental unit; or,
  5. A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, desire to rent the unit at a higher rental rate).
- D.** The Owner must give the PHA a copy of any Eviction Notices served to the Tenant.



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**E. Family Eligibility for Continued Assistance:** Termination of tenancy is not automatically termination of Assistance:

1. The Family is eligible for another Voucher to use at a new location regardless of whether the PHA authorizes the eviction as long as the Family is eligible, as established in the PHA's Administrative and Equal Opportunity Housing Plan;
2. If the Family is evicted and owes money to the landlord (i.e, unpaid rent), the PHA may determine the Family ineligible for issuance of another Voucher.
3. If the Family is determined to be ineligible for continued Assistance at the time of Termination of Tenancy, the PHA is required to notify the Family and provide an Informal Hearing on the determination.

**D. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS**

The HA will follow HUD rules for terminations due to ineligible immigration status.

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Chapter 15

**DENIAL OR TERMINATION OF ASSISTANCE**

**INTRODUCTION**

The HA may deny assistance for an applicant or terminate assistance for a participant because of the family's action or failure to act. An applicant who was previously a participant in the Housing Choice Voucher (HCV) program and whose assistance was terminated by any Housing Authority may not receive HCV assistance for a minimum of **five** (5) years (**24 CFR 982.552 (c)(1)(iii)**). This applies to **all members** of the previously assisted household, not just those who were adult members at the time of termination. For members who were minors at the time of termination, or as a reasonable accommodation for persons with disabilities, the HA may allow participation if the member was not involved in the action that led to the termination. The HA will consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The HA will provide families with a written description of the family obligations under the program, the grounds under which the HA can deny or terminate assistance, and the HA's informal hearing procedures. This chapter describes when the HA is required to deny or terminate assistance, and the HA's policies for the denial of assistance and the grounds for termination of assistance under an outstanding HAP contract.

**A. GROUND FOR DENIAL OF ASSISTANCE 24 CFR 982.552-553**

**Form of Denial of Assistance**

Denial of assistance for an applicant may include any or all of the following:

1. Denial for placement on the HA waiting list
2. Denying or withdrawing a Voucher
3. Refusing to enter into a HAP contract or approve a lease
4. Refusing to process or provide assistance under portability procedures

**Mandatory Denial of Assistance**

The HA must deny assistance to applicants for the following reasons:

1. If any member of the family fails to sign and submit HUD or HA required consent forms for obtaining information.
2. ~~If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher learning~~

The applicant is a student enrolled at an institution of higher education, is under the age of 24, is not a veteran, unmarried and does not have a dependent child, is individually ineligible for section 8 assistance, or the student's parents are, individually or jointly, ineligible for assistance, as specified in 24 CFR 5.612.

3. If an applicant or any household member has been evicted from federally assisted housing for drug-related criminal activity within three years unless the PHA determines:
  - a. That the evicted household member who engaged in the drug-related criminal activity has

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successfully completed a supervised drug rehabilitation program; or,

- b. That the circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).
  4. If the HA determines that any household member is currently engaging in illegal use of a drug.
  5. If the HA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
  6. Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
  7. If any member of the household (including minors) is subject to a registration requirement under a State sex offender registration program. (In this screening of applicants, the HA must perform criminal history background checks necessary to determine whether any household member is subject to a sex offender registration requirement in the State where the housing is located and in other States where the household members are known to have resided.)
- Registered Sex Offender Notice:** The California Department of Justice, sheriff's departments, police departments serving jurisdictions of 200,000 or more and many other law enforcement authorities maintain for public access a data base of locations of persons required to register pursuant to paragraph (1) of subdivision (a) of Section 290.4 of the Penal Code. The data base is updated on a quarterly basis and is a source of information about the presence of these individuals in any neighborhood. Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides.

### **Permissive Grounds for Denial of Assistance**

The HA may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the reasons listed below.

1. If the family violates any family obligation under the program.
2. If any member of the family has been evicted from federally assisted housing in the last five years.
3. If a PHA has ever terminated assistance under the program for any member of the family.
4. If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
6. If the family currently owes rent or other amounts to the HA or to another PHA in connection with Section 8 or Public Housing Assistance under the 1937 Act. The family may be given an opportunity to repay the balance in full within 10 calendar days. If the family fails to do so, it will result in the denial of assistance and the family's name being removed (withdrawn) from the waiting list.
7. If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
8. If the family breaches an agreement with the HA to pay amounts owed to a PHA, or amounts

- paid to an owner by a PHA.
9. If the family has engaged in or threatened abusive or violent behavior toward HA personnel “Abusive or violent behavior towards HA personnel” include verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial. “Threatening” refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence. Actual physical abuse or violence will always be cause for termination.
  10. If the family has been engaged in criminal activity or alcohol abuse as described in 24 CFR 982.553.
  11. If the HA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the admission: i) Drug-related criminal activity; ii) Violent criminal activity; iii) other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or iv) other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the HA (including a HA employee or HA contractor, subcontractor, or agent). For purposes of this prohibition, a household member is “currently engaged in” criminal activity if that person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.
  12. If the HA determines that it has reasonable cause to believe that a household member’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents

**B. GROUNDS FOR TERMINATION OF ASSISTANCE 24 CFR 982.552-553**

**Form of Termination of Assistance**

Termination of assistance for a participant may include any or all of the following:

1. Refusing to enter into a HAP contract or approve a lease.
2. Terminating housing assistance payments under an outstanding HAP contract.
3. Refusing to process or provide assistance under portability procedures.

**Mandatory Termination of Assistance**

The HA must terminate program assistance for the following reasons:

1. If a family is evicted from housing assisted under the program for serious violation of the lease.
2. If any member of the family fails to sign and submit HUD or HA required consent forms for obtaining information.
3. ~~If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher learning~~

The applicant is a student enrolled at an institution of higher education, is under the age of 24, is not a veteran, unmarried and does not have a dependent child, is individually ineligible for section 8 assistance, or the student’s parents are, individually or jointly, ineligible for assistance, as specified in 24 CFR 5.612.

4. If the HA determines that any member of the household has ever been convicted of drug-

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related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

### **Permissive Grounds for Termination of Assistance**

The HA may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the reasons listed below.

1. If the family violates any family obligation under the program.
2. If any member of the family has been evicted from federally assisted housing in the last five years.
3. If a PHA has ever terminated assistance under the program for any member of the family.
4. If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
6. If the family currently owes rent or other amounts to the HA or to another PHA in connection with Section 8 or Public Housing Assistance under the 1937 Act
7. If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease
8. If the family breaches an agreement with the HA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA
9. If the family has engaged in or threatened abusive or violent behavior toward HA personnel  
“Abusive or violent behavior towards HA personnel” include verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial. “Threatening” refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence. Actual physical abuse or violence will always be cause for termination.
10. If any household member is currently engaged in any illegal use of a drug; or if a pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
11. If the HA determines that any family member has violated the family’s obligation under 24 CFR 982.551 not to engage in any drug-related criminal activity.
12. If an applicant or family violates the Amended Policy on Zero Tolerance Policy of Criminal Activity.

### **C. Violence Against Women Act (VAWA) of 2005**

Denial of assistance to an applicant or termination of assistance of a participant for criminal activity are subject to the provisions of the Violence Against Women Act of 2005 as described below:

1. Being a victim of domestic violence, dating violence, or stalking (see glossary for legal definitions) is not a basis for denial of assistance or admission to public or assisted housing if the applicant otherwise qualifies for assistance or admission
2. Incidents or threats of abuse will not be construed as serious or repeated violations of the lease or other “good cause” for termination of the assistance, tenancy, or occupancy rights of a victim of abuse
3. Criminal activity directly relating to abuse, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s

family is the victim of that abuse

4. Notwithstanding the restrictions that VAWA places, the HA may “bifurcate” a lease without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against 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, and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing. Neither the authority nor the procedures under any other law is necessary to bifurcate or otherwise remove an individual from the lease. Furthermore, this federal statutory authority to bifurcate a lease or otherwise remove an individual takes precedence over any federal, state, or local law to the contrary.
5. The HA has authority to terminate voucher assistance for certain family members while permitting other members of a participant family to continue receiving assistance (providing the culpable family member will no longer reside in the unit). The HA’s right to exercise this administrative discretion is not dependent on a bifurcated lease or other eviction action by the owner against an individual family member.
6. Certification of Abuse: The HA will request that the victim complete the HUD form 50066 -- Certification of Domestic Violence, Dating Violence or Stalking. This form must be provided within 14 business days from the date the HA requests it. Without the certification, the HA may terminate assistance.

**Family Self Sufficiency (FSS)**

The HA will not terminate assistance for FSS families who fail to comply with the FSS Contract of Participation unless participation in FSS is a requirement or condition of the program under which the family was admitted.

**D. FAMILY OBLIGATIONS**

**24 CFR 982.551**

1. The family must supply any information that the HA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR Part 5). “Information” includes any requested certification, release or other documentation.  
The family must supply any information requested by the HA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
2. The family must disclose and verify Social Security numbers and must sign and submit consent forms for obtaining information in accordance with HUD regulations.
3. Any information supplied by the family must be true and complete.
4. The family is responsible for an HQS breach caused by the family or their invitees.
5. The family must allow the HA to inspect the unit at reasonable times and after reasonable notice.
6. The family may not commit any serious or repeated violation of the lease.
7. The family must notify the PHA and the owner before the family moves out of the unit or terminates the lease on notice to the owner.

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8. The family must promptly give the HA a copy of any owner eviction notice in writing within 10 days of occurrence.
9. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
10. The composition of the assisted family residing in the unit must be approved by the HA. The family must promptly inform the HA in writing within 10 days of occurrence of the marriage (or the addition of a co-head), birth, adoption or court-awarded custody of a child. The family must request HA approval to add any family member as an occupant of the unit. No other person may reside in the unit (except for a foster child or live-in aide).
11. The family must promptly notify the HA in writing within 10 days of occurrence if any family member no longer resides in the unit.
12. If the HA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or HA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
13. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.
14. The family must not sublease or let the unit.
15. The family must not assign the lease or transfer the unit.
16. The family must supply any information or certification requested by the HA to verify that the family is living in the unit, or relating to family absence from the unit, including any HA-requested information or certification on the purposes of family absences. The family must cooperate with the HA for this purpose. The family must promptly notify the HA of absence from the unit.
17. The family must not own or have any interest in the unit.
18. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.
19. The members of the family may not engage in alcohol or 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.
20. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, state or local housing assistance program.
21. The members of the household must not abuse 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.

### **Explanations and Terms**

The term "promptly" when used with the family obligations always means "within 10 calendar days."

### **Housing Authority Discretion**

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the HA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating

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circumstances related to the disability of a family member, the length of time since the violation occurred and more recent record of compliance, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act. All denials or terminations of assistance will be consistent with fair housing and equal opportunity provisions.

The HA may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit.

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In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the HA may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. For this purpose, the HA may require the applicant or 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.

If the family includes a person with disabilities, the HA will determine if such action is subject to consideration of reasonable accommodation.

### **Lease Violations**

In determining whether a serious or repeated violation of the lease will cause a termination of assistance, the HA will consider all circumstances including whether the owner terminates tenancy through court action for serious or repeated violation of the lease, the tenant's statements and documents, verifications provided by either the owner or the tenant, and any reports of lease violations, neighborhood complaints or other third party information.

### **HQS Breach**

The HA will determine if an HQS breach as identified in HUD Regulations is the responsibility of the family. Families may be given extensions to cure HQS breaches by the HA in accordance with HUD regulations.

### **Denial of Additions to the Household**

Proposed additions to the family may be denied to:

- Persons who have been evicted from public housing.
- Persons who engage in or have engaged in, alcohol or drug-related criminal activity or violent criminal activity.
- Persons who do not meet the HA's definition of family.
- Persons who commit or have committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- Persons who currently owe rent or other amounts to the HA or to another HA in connection with Section 8 or Public Housing Assistance under the 1937 Act.
- Persons who have engaged in or threatened abusive or violent behavior toward HA personnel.

## **E. PROCEDURES FOR NON-CITIZENS**

### **Termination due to Ineligible Immigrant Status**

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending. Participant families in which all members are neither U.S. citizens nor eligible immigrants must have their assistance terminated; however, they will be given an opportunity for a hearing.

**False or Incomplete Information**

When the HA has clear, concrete, or substantial documentation (such as permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the HA may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. The HA will then verify eligible status, deny, terminate, or prorate as applicable. The HA will deny or terminate assistance based on the submission of false information or misrepresentations.

**F. ZERO HOUSING ASSISTANCE PAYMENT FOR TENANTS**

The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner. If within the 180 day time frame, the Total Tenant Payment causes the family to be eligible for a housing assistance payment, the HA will resume assistance payments for the family.

**G. MISSED APPOINTMENTS AND DEADLINES**

It is a family obligation to supply information, documentation, and certification as needed for the HA to fulfill its responsibilities. The HA schedules appointments and sets deadlines in order to obtain required information. The obligations also require that the family allow the HA to inspect the unit and appointments are made for this purpose.

If an applicant or participant does not keep an appointment, does not supply information required by a deadline or does not allow the HA to inspect the unit, the HA may deny or terminate assistance. The family will be given information about the requirement to keep appointments as specified in this Plan.

Appointments may be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for Admissions
- Verification Procedures
- Voucher Issuance and Briefing
- Housing Quality Standards and Inspections
- Re-certifications
- Appeals

**Procedure when Family Obligations are not met**

When the participant family fails to fulfill their obligations within the time frames established by the HA, a “Pre-Termination of Assistance” appointment will be scheduled for the family. The appointment notice shall inform the family of the obligation not met and the necessary remedy. If the obligation is still not met, a Notice of Intent to Terminate Assistance will be issued. If the family corrects the breach within the time frame allowed for requesting a hearing, the notice may be rescinded. The HA will consider whether the family has a history of non-compliance in making determinations to terminate assistance.

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At the same time that the family is notified of a breach in their obligations, a “Conditional Termination of Contract” notice will be sent to the owner. This notice will inform the owner that should the family fail to comply with their obligations, the contract will end.

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**Chapter 16**

**OWNER DISAPPROVAL AND RESTRICTIONS**

**INTRODUCTION**

It is the policy of the HA to recruit owners to participate in the program, and to provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the HA. The regulations define when the HA must disallow an owner participation in the program, and they provide the HA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This chapter describes the criteria for owner disapproval and the various penalties for owner violations.

**A. DISAPPROVAL OF OWNER**

The owner does not have a right to participate in the program. For purposes of this section, “owner” includes a principal or other interested party.

The HA will disapprove the owner for the following reasons:

- HUD has informed the HA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed the HA that the Federal Government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.
- HUD has informed the HA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements
- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.
- The owner has engaged in any drug-related criminal activity or any violent criminal activity.
- The owner has 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 renting units that fail to meet state or local housing codes.
- The owner has not paid state or local real estate taxes, fines or assessments.
- HA has received evidence that owner is requesting and accepting side payments for rent.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
  - Threatens the health or safety of, or the right to peaceful enjoyment of the premises by other residents
  - Threatens the health or safety of other residents, or employees of the HA, or of owner employees or other persons engaged in management of the housing

- Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises
- Engages in drug-related criminal activity or violent criminal activity
- HUD regulations prohibit the HA from approving a unit if the owner is the parent, child, grandparent, grandchild, sister, brother, uncle, aunt, or in-law of any member of the tenant family, unless the HA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

**B. OWNER RESTRICTIONS AND PENALTIES**

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, the HA will restrict the owner from future participation in the program. The HA may also terminate some or all contracts with the owner.

Before imposing a penalty against an owner, the HA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

**C. OTHER REMEDIES FOR OWNER VIOLATIONS**

**Overpayments**

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the HA may terminate the Contract and arrange for restitution to the HA and/or family as appropriate.

The HA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited from future payments in order to repay the HA or the tenant, as applicable. The HA will take court action to recover overpayments when other means fail to result in such collection.

**Chapter 17**

**OWNER OR FAMILY DEBTS TO THE HA**

**INTRODUCTION**

This chapter describes the HA's policies for the recovery of monies which have been overpaid to an owner on behalf of an assisted family. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the HA'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.

The HA will make every effort to collect monies owed to the HA. The HA will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Civil suits
- Repayment agreements
- Abatements
- Collection agencies
- Credit bureaus
- Income tax set-off programs

**A. REPAYMENT AGREEMENT FOR FAMILIES**

A Repayment Agreement as used in this Plan is a document entered into between the HA and a person who owes a debt to the HA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement, and the remedies available to the HA upon default of the agreement.

The maximum amount the Housing Authority will enter into a repayment agreement with a family is \$4800.00. The maximum length of time the HA will enter into a repayment agreement with a family is 24 months. The family will be required to make monthly payments of \$200.00 for a period not to exceed 24 months until paid in full. If the family owes more than \$4800.00, the portion that exceeds \$4800.00 must be paid in full immediately as the Housing Authority will not enter into an agreement for more than \$4800.00. Furthermore, 10% of the Repayment Agreement, regardless of whether it exceeds \$4800.00 or not must be paid in full immediately. The HA reserves the right to modify the terms of the repayment agreement on a case by case basis. Signing a Repayment Agreement does not guarantee continued assistance.

**Late Payments**

A payment will be considered to be in arrears if it is two months in default and if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's repayment agreement is in arrears, the HA may require the family to pay in full. If the family requests a move to another unit and has a repayment agreement in place, the family will be required to pay the balance in full prior to the issuance of a Voucher.

**B. DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION**

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead.

**Program Fraud**

Families who owe money to the HA due to program fraud will be required to repay in accordance with the guidelines in the Repayment Section of this chapter and may be terminated from the housing assistance program.

If a family owes \$5,000 or more as a result of program fraud, the case may be referred to the HUD Inspector General. Where appropriate, the HA may refer the case for criminal prosecution.

**C. OWNER DEBTS TO THE HA**

If the HA determines that the owner has retained Housing Assistance Payments the owner is not entitled to, the HA may reclaim the amounts from future Housing Assistance Payments owed the owner for any units under contract.

If future Housing Assistance Payments are insufficient to reclaim the amounts owed, the HA may:

- Require the owner to pay the amount in full within a maximum of 12 months
- Pursue collections through the court system, the Internal Revenue Service (IRS), Franchise Tax Board (FTB), or any other available method
- Restrict the owner from future participation

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**Chapter 18**

**COMPLAINTS AND APPEALS**

**INTRODUCTION**

The informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of the HA. This chapter describes the policies, procedures and standards to be used when families disagree with a HA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the HA to ensure that all families have the benefit of all protections due to them under the law.

**A. COMPLAINTS TO THE HA**

The HA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The HA prefers that all complaints be put in writing, however, they may be reported by telephone. Complaints that cannot be substantiated will be so noted.

Complaints from families, owners, or the general public will be referred to the Housing Specialist first. Unresolved complaints or those involving a staff member will be referred to a Housing Supervisor or Program Integrity Monitoring (PIM).

Any complaints of racial, ethnic or sexual harassment involving staff will be handled according to County personnel policies. Any complaints regarding racial, ethnic or sexual harassment not involving staff will be documented, referred to Fair Housing and/or Legal Aid, and will be reviewed by supervisory staff.

**B. NOT MEETING PREFERENCES**

When it is verified by the HA that an applicant does not meet a preference that they self-certified they did, they will be returned to the waiting list and will be notified in writing of the specific reason.

**C. INFORMAL REVIEW**

The HA must give an applicant an opportunity for an informal review of the HA decision denying assistance to the applicant. Once an applicant has received a denial letter, they have 30 days from the date of their denial letter to request a review in writing. After review, the applicant will be furnished with a written final decision including a statement of the reasons for the final decision.

The HA is not required to provide the applicant an opportunity for an informal review for any of the following:

1. Discretionary administrative determinations by the HA.
2. General policy issues or class grievances.
3. A determination of the family unit size under the HA subsidy standards.
4. An HA determination not to approve an extension or suspension of a voucher term.



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5. An HA determination not to grant approval to lease a unit under the program or to approve a proposed lease.
6. HA determination that a unit selected by the applicant is not in compliance with HQS.
7. An HA determination that the unit is not in accordance with HQS because of the family size or composition.

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 immigration status, the applicant is entitled to an informal hearing-review.

### **D. INFORMAL HEARING**

The HA must provide participants with the opportunity for an informal hearing for decisions related to any of the following:

1. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
2. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HA utility allowance schedule.
3. A determination of the family unit size under HA subsidy standards.
4. A determination to terminate assistance for a participant family because of the family's action or failure to act.
5. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under HA policy and HUD rules.

The HA will give the family prompt notice of such determinations which will include:

- The proposed action or decision of the HA.
- The date the proposed action or decision will take place.
- The family's right to an explanation of the basis for the HA's decision.
- The procedures for requesting a hearing if the family disputes the action or decision.
- The time limit for requesting the hearing.
- To whom the hearing request should be addressed.

The HA is not required to provide a participant family an opportunity for an informal hearing for any of the following:

1. Discretionary administrative determinations by the HA.
2. General policy issues or class grievances.
3. Establishment of the HA schedule of utility allowances for families in the program.
4. An HA determination not to approve an extension or suspension of a Voucher term.
5. An HA determination not to approve a unit or lease.
6. An HA determination that an assisted unit is not in compliance with HQS. However, the HA must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in 24 CFR 982.551.
7. An HA determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the HA to exercise or not to exercise any right or remedy against the

owner under a HAP contract.

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**E. INFORMAL REVIEW/HEARING PROCEDURES**

It is the HA's objective to resolve disputes at the lowest level possible. Informal reviews are granted to applicants and informal hearings are granted to participants. The HA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

Notification of Review/Hearing

When the HA determines that an applicant is denied assistance, and for participants, other specified actions, the family must be notified in writing. The notice must contain:

- The reason(s) the action is being taken,
- The procedure for requesting an informal review/hearing if the applicant/participant does not agree with the decision, and
- The time limit for requesting a review/hearing.

A request for an informal review/hearing must be received in writing by the close of the business day, no later than 10 calendar days from the date of the HA's notification of denial of assistance or intent to terminate assistance. For informal hearings, the information packet must be submitted to the hearing officer by the HA within 7 business days of receipt of the request for hearing. An appointment will be scheduled and a letter will be sent by the hearing officer within 5 business days from the date the information packet is received and the informal hearing will be conducted no more than 14 calendar days from the date the appointment letter is sent. For informal reviews, the review must be performed within 14 calendar days from the date the review is requested and the results sent to the applicant by mail within 10 business days after the review. The review will be performed in person unless the applicant requests either a review by phone or letter. The informal review/hearing shall be conducted by the review/hearing officer appointed by the HA who is neither the person who made nor approved the decision, nor a subordinate of that person. The HA appoints a review/hearing officer who is a staff person at the Housing Specialist II level or above, or an individual from outside the HA.

The review/hearing shall concern only the issues for which the family has received the opportunity for a review/hearing. Evidence presented at the review/hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The applicant/participant will be given the opportunity to present oral or written objections to the decision. Both the HA and the family may present evidence and witnesses. Both the HA and the family may use an attorney or other representative to assist them at their own expense.

A representative with written authorization to act on behalf of the applicant/participant may conduct an informal review/hearing in the absence of the applicant/participant, unless the representative has an interest in the rental assistance, i.e., the owner of the assisted unit.

When the hearing officer receives an information packet for an informal hearing, an informal hearing date will be scheduled and the notification will contain:

1. The date and time of the hearing.
2. The location where the hearing will be held.

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3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense.
4. The right to view any documents or evidence in the possession of the HA upon which the HA based the proposed action, and to obtain a copy of such documents prior to the review/hearing. Such documents or evidence must be sent to the family no later than 7 days before the review/hearing date.
5. A notice to the family that the HA will request a copy of any documents or evidence the family will use at the review/hearing. Such documents or evidence must be received by the HA no later than 7 days before the review/hearing date.

After a review/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.

### Family rights:

- Examine the documents in the file which are the basis for the HA's action, and all documents submitted to the Hearing Officer.
- The family must be allowed to copy any such document at the family's expense.

If the HA does not make the document available for examination on request of the family, the HA may not rely on the document at the hearing.

### HA rights:

- Examine at HA offices before the HA hearing any family documents that are directly relevant to the hearing.
- The HA must be allowed to copy any such document at the HA's expense.

If the family does not make the document available for examination on request of the HA, the family may not rely on the document at the hearing.

The review/hearing officer will **determine** whether the action, inaction or decision of the HA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the review/hearing.

A notice of the review/hearing findings shall be provided in writing to the HA and the family within 10 business days and shall include a clear summary of the decision, reasons for the decision, and the amount of any money owed, if applicable.

### When the HA is not bound by review/hearing decisions:

- Concerning matters in which the HA is not required to provide an opportunity for a hearing.
- Which conflict with or contradict HUD regulations or requirements.
- Which conflict with or contradict federal, state or local laws.
- Which exceed the authority of the person conducting the review/hearing.

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The HA shall send a letter to the applicant/participant if it determines the HA is not bound by the review/hearing officer's determination within 21 calendar days. The letter shall include the HA's reasons for the decision with a copy to the review/hearing officer. All requests for a review/hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

### **F. HEARING AND APPEAL PROVISIONS FOR RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS**

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 of the INS appeal. Assistance to a family may not be terminated or denied while the informal hearing is pending but assistance to an applicant may be delayed pending the informal hearing.

#### **INS Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the HA notifies the applicant or participant within 10 calendar days of their right to appeal to the INS within 30 calendar days or to request an informal hearing with the HA either in lieu of or subsequent to the INS appeal.

If the family appeals to INS, they must give the HA a copy of the appeal and proof of mailing or the HA may proceed to deny or terminate. The time period to request an appeal may be extended by the HA for good cause.

The request for an HA hearing must be made within 10 calendar days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within 10 calendar days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this plan for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members, the HA will deny the applicant family. If there are eligible members in the family, the HA will offer to prorate assistance or give the family the option to remove the ineligible members.

If any family member fails to provide documentation or certification of eligible citizenship/immigration as required by the regulation, that member is treated as ineligible. If all family members fail to provide documentation or certification, the family will be denied or terminated.

Participants whose assistance is prorated (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.

**Chapter 19**

**FAMILY SELF-SUFFICIENCY (FSS) PROGRAM**

**INTRODUCTION**

Family self-sufficiency (FSS) is a HUD program that encourages communities to develop local strategies to help voucher families obtain employment that will lead to economic independence and self-sufficiency. Public housing agencies (PHAs) work with welfare agencies, schools, businesses, and other local partners to develop a comprehensive program that gives participating FSS family members the skills and experience to enable them to obtain employment that pays a living wage.

The purpose of Family Self-Sufficiency (FSS) Program is to provide housing assistance combined with public and private resources that will help families achieve economic independence and self-sufficiency. We believe that when a family's basic needs for affordable and stable housing are met, the family can better focus on other needs, such as skill development and job search.

At this time HACR manages the FSS Program for Section 8 Program participants only. Though only the designated head of the household must sign the FSS Contract of Participation, the program is designed for the whole family and everybody's needs are taken into account. FSS programs partner with other service providers, such as: employment and training agencies, community colleges, job search and placement organizations, alcohol and drug services, childcare providers, youth organizations, older adult services, health services, emergency services, credit and homeownership counselors, the local CalWORKs office, and many more.

**ENROLLMENT AND RECRUITMENT**

All Section 8 participants are eligible for FSS program. A participant cannot be excluded from the program for such reasons as poor work history or lack of basic literacy skills. The FSS Program is a voluntary program, the premise of this program is that everyone deserves a chance for self-sufficiency, regardless of his or her current skill level, ability, or past work performance. In order to enroll in the program, participant's income update must have been completed within the last 90 days along with attending a mandatory one hour informational orientation.

**CONTRACT OF PARTICIPATION**

The participant must sign a five-year Contract of Participation, which states all the agreed upon terms between the participant and the Housing Authority (HA). Participants are expected to complete their goals within five years, though the Contract of Participation may be extended up to two years for good cause. To qualify for an extension, the participant must make the request in writing and include justification for the need for additional time. Contract extensions will be evaluated on a case by case basis.

**INDIVIDUAL TRAINING AND SERVICE PLAN (ITSP)**

The ITSP consists of the participant's final goal, interim goals, and specific steps the participant needs to take in order to accomplish those goals. Typically, goals are focused on attaining full-time employment, job advancement, training and education, financial stability, childcare, and

personal growth and development.

**CASE MANAGEMENT AND COMMUNITY SERVICES**

The FSS Coordinator works in partnership with participants to identify and secure resources that yield self-sufficiency. Case management includes supportive counseling, information and referrals, and ongoing goal development and planning, which will ultimately help participants gain skills and lifelong learning that continue beyond their participation in FSS. Participants will be referred to community agencies for additional services to support their self-sufficiency efforts.

**ESCROW ACCOUNTS**

In general, as a family's earned income increases, the amount the family must pay for rent increases. When this happens, HACR takes a portion of the rent subsidy and places it in an interest-bearing escrow account on a monthly basis. The account is held for the family until they have completed all goals set in the Self-Sufficiency Plan. Once the family has met its goals and become independent of government assistance (ex: AFDC, GA, etc.) for a minimum of one year, they may cash out the escrow account. A participant must put their request to graduate from the program and cash out the escrow account in writing. If a family is unable to complete their goals in the prescribed time period the escrow account will be forfeited and the funds will be returned to HACR.

**SUPPORTIVE SERVICES**

- A. For each family that is a non-elderly, non-disabled family living in a unit receiving Project Based rental assistance, the family shall participate in the development and implementation of the service plan.
- B. Families will be informed of HUD's Family Self-Sufficiency program (FSS) and will be asked to participate in FSS so as to expand their access to services in their communities;
- C. For each family that is a non-elderly, non-disabled family living in a unit receiving Project Based rental assistance, the Housing Authority (HA) shall ensure that an individual service plan is established in consultation with the family and in place within 3 months after lease-up. This plan must include an assessment, an action plan for addressing the family's needs including services to be received, and the identification of long term housing goals. The agreement may require mandatory attendance at self-sufficiency counseling and training sessions;
- D. The HA shall ensure that the following services are available directly or by referral/agreement with another agency to each non-elderly, non-disabled family living in a unit receiving Project Based rental assistance:

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- Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation; and access to health care (e.g. doctors, medication, and mental and behavioral health services);
  - Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
  - Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc);
  - Education and career advancement counseling regarding attainment of general equivalency diploma (GED); attendance/financing of education at technical school, trade school or college; including successful work ethic and attitude models; and
  - Participation in the assessment and implementation of actions to address their needs, including the development of an individual case plan for each adult and the adult's commitment to the plan (each adult is required to sign a service plan agreeing to attend FSS counseling/training sessions and to take other actions as deemed appropriate to the adult's successful transition to self-sufficiency); and
- E. The HA shall ensure either directly or by referral/agreement with another agency that each family living in a unit receiving Project Based rental assistance that is a non-elderly, non-disabled family are regularly case managed and evaluated during the lease term.

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**APPENDIX A: GLOSSARY**

**ABSORPTION:** The point at which a receiving HA stops billing the initial HA for assistance on behalf of a portability family. The receiving HA uses funds available under the receiving HA consolidated ACC.

**ACC RESERVE ACCOUNT (formerly Project Reserve):** Account established by HUD from amounts by which the maximum payment to the HA under the consolidated ACC (during an HA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

**ADJUSTED INCOME:** Annual income, less allowable HUD deductions.

**ADMINISTRATIVE FEE:** Fee paid by HUD to the HA for administration of the program.

**ADMINISTRATIVE FEE RESERVE (formerly Operating Reserve):** Account established by HA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

**ADMISSION:** The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

**ALCOHOL ABUSE:** HACR has determined that a pattern of alcohol abuse exists when there are two or more criminal charges involving alcohol during a three year period.

**ANNUAL CONTRIBUTIONS CONTRACT (ACC):** A written contract between HUD and an HA. Under the contract HUD agrees to provide funding for operation of the program, and the HA agrees to comply with HUD requirements for the program.

**ANNUAL INCOME:** The anticipated total Annual 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 (or applicant family):** A family that has applied for admission to a program, but is not yet a participant in the program.

**ASSETS:** (See Net Family Assets.)

**ASSISTED TENANT:** A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120 percent of the BMIR rent, respectively.

**BUDGET AUTHORITY:** An amount authorized and appropriated by the Congress for payment to the HA under the program. For each funding increment in an HA program, budget

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authority is the maximum amount that may be paid by HUD to the HA over the ACC term of the funding increment.

**CHILD:** A member of the family other than the head or spouse/co-head who is under 18.

**CHILD CARE EXPENSES:** Reasonable amounts (based on average county wide costs determined by a yearly survey of child care providers and not exceeding the earned income) paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

**CITIZEN:** A citizen or national of the United States.

**CO-HEAD:** A co-head is the boyfriend, girlfriend, or significant other of the head of the household. This person has equal responsibility for the lease. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent (50058 Instruction Booklet-3h). A Co-head may qualify the family as a disabled or elderly household and consequently receive a \$400 annual allowance. (24CFR 5.403 for disabled/elderly definition of a “family”—“two or more persons living together”).

**CONTINUOUSLY ASSISTED:** If the family is already receiving assistance under any 1937 Housing Act program when admitted to the Voucher program the applicant is considered continuously assisted under the 1937 Housing Act.

**CONTRACT:** (See Housing Assistance Payments Contract.)

**CONTRACT AUTHORITY:** The maximum annual payment by HUD to an HA for a funding increment.

**CONTRACT RENT:** Contract Rent is the total rent paid to the owner, including the tenant payment and the HAP payment from the HA.

**COURT PROGRAM:** A program run by Riverside County Family and Dependency Drug Courts

**COVERED PERSON:** A tenant, any member of the tenant’s household, a guest or another person under the tenant’s control.

**CREDIBLE EVIDENCE:** May be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

**DATING VIOLENCE:** Violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of the relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

**DEPENDENT:** A member of the family household (excluding foster children) other than the family head or spouse/co-head, who is under 18 years of age or is a disabled person or handicapped person, or is a full-time student 18 years of age or over.

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**DISABLED PERSON:** A person who is any of the following:

1. A person who has a disability as defined in Section 223 of the Social Security Act. (42 U.S.C. 423).
2. A person who has a physical, mental, or emotional impairment that:
  - a. Is expected to be of long-continued and indefinite duration;
  - b. Substantially impedes his or her ability to live independently; and
  - c. Is of such a nature that ability to live independently could be improved by more suitable housing conditions.
3. A person who has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)).

**DISABLED FAMILY:** A family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

**DISPLACED PERSON:** 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 under federal disaster relief laws.

**DOMICILE:** The legal residence of the household head or spouse/co-head as determined in accordance with state and local law.

**DOMESTIC VIOLENCE:** Felony or misdemeanor crimes of violence committed by a current or former spouse/co-head 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/co-head, by a person similarly situated to a spouse/co-head 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.

**DRUG:** A controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**DRUG-RELATED CRIMINAL ACTIVITY:** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

~~**ELDERLY/DISABLED FAMILY:** A family whose head (including co-head), or spouse/co-head or whose sole member is a an elderly person who is at least 62 years of age. It may include 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. a disabled person, or a handicapped person as defined in this section; or may be two or more elderly, disabled or handicapped persons living together; or one or more such persons living with another person who is determined to be essential to his/her care and well being.~~

~~**ELDERLY PERSON:** A person who is at least 62 years old.~~

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**EVIDENCE OF CITIZENSHIP:** Evidence of citizenship or eligible immigration status means the documents that must be submitted to verify citizenship or eligible immigration status.

**EXCESS MEDICAL EXPENSES:** Any medical expenses incurred by elderly or disabled families only, in excess of 3 percent of annual income that are not reimbursable from any other source.

**EXTREMELY LOW INCOME:** 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.

**FAIR MARKET RENT (FMR):** The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published annually in the *Federal Register* in accordance with HUD regulations.

**FAMILY:** The applicant must qualify as a family as defined in Chapter 2 of this Administrative Plan. Family is used interchangeably with “Applicant” or “Participant” and can refer to a group of persons or a single person family.

**FAMILY OF VETERAN OR SERVICE PERSON:** A family is a family of a veteran or service person when:

1. The veteran or service person (a) is either the head of household or related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.
2. The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless she/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support she/he is legally responsible and the spouse/co-head has not remarried; or (b) not the head of the household, but is permanently hospitalized; provided, that she/he was a family member at the time of hospitalization and at least one related person remains in the family.

**FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM):** The program established by an HA to promote self-sufficiency of assisted families, including the provision of supportive services.

**FAMILY UNIFICATION PROGRAM:** A HUD-specified funded program (CFR 982.204 (e)) for families for whom of lack of adequate housing is a primary factor in the separation, or threat of imminent separation, of children from their families or in the prevention of reunifying the children with their families.

**FOSTER CARE YOUTH (for purposes of the HUD-funded FUP allocation):** A youth at least 18 years old and not more than 21 years old (have not reached their 22 birthday) who left

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foster care at age 16 or older and who do not have adequate housing.

**FOSTER CHILD:** Child whose care, comfort, education, and upbringing has been left to persons other than his natural parents. All foster care income of is excluded.

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**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 carrying a subject load that is considered full time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

**FUNDING INCREMENT:** Each commitment of budget authority by HUD to an HA under the consolidated annual contributions contract for the HA program.

**GAINFUL EMPLOYMENT:** Employed and working an average of 30 ~~32~~ hours per week.

**GROSS RENT:** The sum of the Contract Rent plus the current utility allowance. If there is no utility allowance, Contract Rent equals Gross Rent. The Gross Rent will be used as the payment standard when it is less than the authorized payment standard.

**GUEST:** A person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

**HA:** A Housing Authority - either a Public Housing Agency or an Indian Housing Authority or both. The Housing Authority of the County of Riverside is referred to as "HA" or "Housing Authority" throughout this document.

**HANDICAP ASSISTANCE:** Anticipated costs for care aides and auxiliary apparatus for handicapped or disabled family members that enable a family member (including the handicapped family member) to work.

**HANDICAPPED PERSON:** [Referred to as a Person with a Disability]. A person having a physical or mental impairment which:

1. Is expected to be of long-continued and indefinite duration;
2. Substantially impedes his or her ability to live independently; and
3. Is of such nature that such ability could be improved by more suitable housing conditions.

**HAP CONTRACT:** (See Housing Assistance Payments Contract.)

**HARD TO HOUSE:** Families with three or more minor children are considered a hard to house family. Families that have a disabled person are considered as a hard to house family. Special assistance will be given to these families in finding a rental unit other than their pre-program unit.

**HEAD OF HOUSEHOLD:** The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

**HOMELESS:** Any person or family that: 1) lacks a fixed, regular and adequate nighttime residence; and 2) has a primary nighttime residence that is: (a) a supervised publicly or privately

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operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing); (b) an institution that provides a temporary residence for persons intended to be institutionalized; or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

**HOUSEHOLD:** All persons living in the assisted home who have been authorized by the HA. Any person living in the household without permission of the HA is considered an unauthorized household member.

**HOUSING AGENCY:** A state, county, municipality or other governmental entity or public body authorized to administer the program. The term "HA" includes an Indian housing authority (IHA). (HA and PHA mean the same thing.)

**HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974:** Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

**HOUSING ASSISTANCE PAYMENT:** The monthly assistance payment by an HA. The total assistance payment consists of:

1. A payment to the owner for rent to owner under the family's lease
2. An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a utility reimbursement payment.

**HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT:** A written contract between the HA and an owner in the form prescribed by HUD, in which the HA agrees to make housing assistance payments to the owner on behalf of an eligible family.

**HOUSING ASSISTANCE PLAN:** (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

**HOUSING QUALITY STANDARDS (HQS):** The HUD minimum quality standards for housing assisted under the tenant-based programs.

**HUD:** The U.S. Department of Housing and Urban Development.

**HUD REQUIREMENTS:** HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations, Federal Register notices or other binding program directives.

**IMPUTED ASSET:** Asset disposed of for less than Fair Market Value during the two years preceding examination or reexamination and valued at more than \$5,000.



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**IMPUTED ASSET INCOME:** HUD passbook rate times total cash value of assets. Imputed asset income is used when assets exceed \$5,000.

**IMPUTED WELFARE INCOME:** The difference between the actual welfare grant received by the family and the amount that would be received by the family if a family member was not sanctioned for fraud, or failure to participate in an economic self sufficiency program, or comply with a work activities requirement.

**INCOME:** Income from all sources of each member of the household as determined in accordance with HUD regulations for included and excluded income.

**INCOME FOR ELIGIBILITY:** Annual Gross Income.

**INDIAN:** Any person recognized as an Indian or Alaska Native by an Indian Tribe, the Federal Government, or any State.

**INDIAN HOUSING AUTHORITY (IHA):** A housing agency established either:

1. By exercise of the power of self-government of an Indian Tribe, independent of state law, or
2. By operation of state law providing specifically for housing authorities for Indians

**INTEREST REDUCTION SUBSIDIES:** The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

**INS:** The U.S. Immigration and Naturalization Service

**LANDLORD:** This term means 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. "Landlord" and "Owner" are used interchangeably. See definition of Owner.

**LEASE:** A written agreement between an owner and an eligible family for the leasing of a housing unit. The Section 8 Voucher program has an Addendum to the Lease that has mandatory language that must be incorporated into any lease the HA uses.

**LEGAL GUARDIAN:** A guardian appointed by the court to represent the interests of infants, the unborn, or incompetent persons in legal actions. Guardians are adults who are legally responsible for protecting the well-being and interests of their ward, who is usually a minor.

**LIVE-IN AIDE:** A person who resides with an elderly person or disabled person and who:

1. Is determined to be essential to the care and well being of the person
2. Is not obligated for the support of the person
3. Would not be living in the unit except to provide necessary supportive services
4. Is recommended by a medical professional

**LOCAL PREFERENCE:** A preference used by the HA to select among applicant families.

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**LOW-INCOME FAMILY:** A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. For admission to the Section 8 program, HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

**MARKET RENT:** The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in a FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for Section 8. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

**MEDICAL EXPENSE:** Those total 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.

**MINOR:** A member of the family household (excluding foster children) other than the family head or spouse/co-head 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:** 1/12 of the annual income after allowances or adjusted income.

**MONTHLY INCOME:** 1/12 of the annual gross income.

**NATIONAL:** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**NEAR-ELDERLY:** A person whose head (including co-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:** Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

**NON-CITIZEN:** A person who is neither a citizen nor national of the United States.

**NUCLEUS FAMILY:** All family members at the time of initial voucher issuance (Intake) plus any members added by marriage, birth, adoption, or court awarded custody.

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**OCCUPANCY STANDARDS:** [Now referred to as Subsidy Standards] Standards established by an HA to determine the appropriate number of bedrooms for households. The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.

**OTHER PERSON UNDER THE TENANT'S CONTROL:** A person, although not staying as a guest in the unit, who is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

**OWNER:** Any persons or entity having the legal right to lease or sublease housing.

**PARTICIPANT:** A family that has been admitted to the HA's Section 8 program. The family becomes a participant on the effective date of the first HAP contract executed by the HA for the family (First day of initial lease term).

**PAYMENT STANDARD:** The amount used to calculate the housing assistance a family will receive in the HA's Housing Voucher Program.

**PREFERENCE:** See Local Preference.

**PREMISES:** The building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

**PROGRAM INTEGRITY MONITORING (PIM):** The prevention, detection and investigation of program abuse and fraud. It is driven by the mission of the organization and conducted in a manner respectful of the public, program participants, employees and owners.

**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):** A state, county, municipality, or other governmental entity or public body authorized to administer the programs. The term PHA includes an Indian Housing Authority (IHA). (HA and PHA mean the same thing.) In this rule, a PHA is referred to as a housing agency (HA).

**RANKING PREFERENCE:** A preference used by the HA to select among applicant families that qualify for a preference.

**REASONABLE ACCOMMODATION:** In order to grant equal access and/or an equal opportunity to participate in the HCVP, the PHA will consider requests for reasonable accommodation (reasonable adjustments to the rules, policies, practices, procedures which do not reduce or waive the essential requirements of the program) by persons with disabilities.

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Accommodations are not reasonable if they require fundamental alterations in the nature of the program, or impose undue financial burdens on the PHA. Requests for reasonable accommodation will be considered on a case-by-case basis.

**REMAINING MEMBER OF TENANT FAMILY:** The remaining family member is a member of the family who remains in the assisted unit after the death of the Head of Household, or removal of the Head of Household to an assisted living environment, or government facility. To be considered the remaining member of the tenant family, the person must have been previously approved as part of the nucleus family by the HA and be currently living in the unit.

**RENT BURDENED:** Paying more than 30% of family income for rent. In order to be given the preference of rent burdened, a family must provide evidence that is verifiable

**RENT TO OWNER:** The total amount of rent payable to the owner by the family and the HA per month for an assisted unit. Side payments are prohibited.

**RESIDENCY PREFERENCE:** Given to those applicants who, at the time of release from the waiting list, either: a) reside in the County of Riverside or b) work (head/ spouse/co-head or sole member of the household is employed) or have been notified that they are hired to work in the County of Riverside. This residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

**RESPONSIBLE ENTITY:** The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status (the HA).

**SECRETARY:** The Secretary of Housing and Urban Development

**SECURITY DEPOSIT:** A dollar amount that can be applied to unpaid rent, damages or other amounts to the owner under the lease.

**SECTION 214:** Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214.

**SERVICE PERSON:** A person in the active military or naval service (including the active reserve) of the United States.

**SHARED HOUSING:**

An assisted family shares a unit with the other resident or residents of the unit (See 982.615). The owner of the assisted unit may not live in the unit if they are a relative.

**SINGLE PERSON:** A person living alone or intending to live alone.

**SPORADIC INCOME:** Income that is not regularly received by the household but is received no more than six times in a year.

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**SPOUSE:** The husband or wife of the head of the household. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It does not cover boyfriends, girlfriends, significant others, or “co-heads”. Accordingly, same sex marriage couples cannot be regarded as “spouses” under any housing program under the United States Housing Act of 1937. (HUD’s guidance Public Law 104-199 § 3(a), 110 Stat. 2419, codified at 1 USC § 7)

**STALKING:** Stalking means (A) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of the person; or (iii) the spouse/co-head or intimate partner of that person. As used above, immediately family is defined to mean “with respect to a person (A) a spouse/co-head, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or (B) any other person living in the household of that person and related to that person by blood or marriage.”

**SUBSIDIZED PROJECT:** A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) that receives the benefit of subsidy in the form of:

1. Below-market interest pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
2. Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
3. Direct loans pursuant to Section 202 of the Housing Act of 1959; or
4. Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
5. Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development act unless the project is owned by a Public Housing Agency;
6. A Public Housing Project.

**SUBSIDY STANDARDS:** Standards established by an HA to determine the appropriate number of bedrooms for households. The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.

**TENANT:** Tenant is used to refer to participants in terms of their relation to landlords as lessee.

**TENANT RENT (Also called Net Family Contribution):** The amount payable monthly by the family as rent to the owner (including a HA in other programs). Where all utilities (except telephone) and other essential housing services are supplied by the owner, tenant rent equals total tenant payment. Where some of all utilities (except telephone) and other essential housing services are not supplied by the owner and the cost thereof is not included in the amount paid as

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rent to the owner, tenant rent equals total tenant payment less the utility allowance in the Certificate program. In the Voucher program, tenant rent is rent to owner less HAP.

**TOTAL TENANT PAYMENT (TTP):** The amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**TRANSITIONAL HOUSING:** A housing unit located in a building that contains sleeping accommodations, kitchen, and bathroom facilities. Used exclusively to facilitate the transition of homeless individuals to independent living within twenty-four (24) months and where a governmental body or qualified nonprofit organization provides those individuals with temporary housing and supportive services to assist them in finding and keeping permanent housing.

**UNIT:** Residential space for the private use of a family.

**UTILITIES:** Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage service. Telephone and cable service are not included as utilities.

**UTILITY ALLOWANCE:** If the cost of utilities (except telephone) including range and refrigerator, 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 HA 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 healthy living environment.

**UTILITY REIMBURSEMENT PAYMENT:** The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

**VAWA:** Violence Against Women's Act

**VERY LOW INCOME FAMILY:** A lower-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the Voucher program.

**VETERAN:** A person who meets the definition of a veteran according to California Military and Veterans Code Section 980

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=mvc&group=00001-01000&file=980-980.5>

**VIOLENT CRIMINAL ACTIVITY:** 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. CFR 5.100

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**VOUCHER HOLDER:** A family holding a Voucher with unexpired search time.

**WAITING LIST:** A list of families organized according to HUD regulations and HA policy that are waiting for subsidy to become available.

**WELFARE ASSISTANCE:** Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State, or local Governments.

**WORKING FAMILIES:** A family in which the head and/or spouse/co-head is employed and is working at least 32 hours per week at California minimum wage or higher. For families receiving Unemployment or State Disability or Workman's Compensation, prior employment hours will be used to determine the average. Employment hours for both the head and spouse/co-head may be combined when calculating the 32 hrs/wk. minimum requirement.

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**APPENDIX B: CODE OF CONDUCT**

The Housing Authority of the County of Riverside strives to conduct business in accordance with core values and ethical standards. Professional conduct, ethical practices and adherence to all laws, regulations, and government codes are expected by all employees at all times. To ensure compliance with these standards, the following policies have been established:

**PROHIBITED ACTIVITIES:**

1. Employees shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties, functions, or responsibilities in a position with the Housing Authority. Employees shall not perform any work, service or counsel for compensation outside of the agency where any part of his/her efforts will be subject to approval by any other officer, employee, board, or commission of this Housing Authority.
2. Prohibited activities shall include but not be limited to:
  - a. Acceptance of money or other consideration from anyone other than the Housing Authority for the performance of duties required or expected of him/her in the regular course of Housing Authority employment.
  - b. Performance of an act in other than his/her capacity as an officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee of the Housing Authority.
  - c. Any act wherein time demands would render performance of his or her duties as an officer or employee less efficient and productive.
  - d. Embezzlement and falsification of accounts as defined in the California Penal Code.

**CONFLICT OF INTEREST POLICY**

1. To avoid potential conflicts of interest, or the appearance of such, it is the policy of this Housing Authority that:
  - A. No employee shall enter into any agreement, written or unwritten, without prior approval from the Assistant Executive Director or his designee, that involves any direct payment or other form of compensation as a result of any program administered by this Housing Authority, either directly or indirectly, through agreements with other parties.
  - B. No employee, officer, or agent of the Housing Authority shall participate directly or indirectly in the selection, award or administration of any contract if a conflict, real or perceived, would be involved. Such conflict would arise when a

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financial or other interest in the execution of a contract or in Housing Authority program participation is held by:

- (1) An employee, officer, or agent involved in making the award;
- (2) The relative of such a person (including, but not limited to, spouse or domestic partner or significant other, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, father-in-law, mother in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister);
- (3) The business partner of such a person; or someone with an interest in,
- (4) An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

### **THE CONSEQUENCES OF RULE VIOLATIONS:**

Any violation of prohibited activities shall be handled as for the acts set out under Section 2.I. (3) of the Agency's personnel policies on Discipline, Dismissal, and Review.

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**APPENDIX C: ZERO TOLERANCE POLICY**

**HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE'S  
POLICY ON ZERO TOLERANCE  
OF CRIMINAL ACTIVITY**

**July 1, 2012**

**PURPOSE**

To establish a Housing Authority (HA) policy for zero tolerance of housing and/or welfare fraud, violent, gang-related, and drug-related (including medical marijuana) criminal activity or any criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents or others in the immediate vicinity in any housing program administered by the Housing Authority. If a family is granted court ordered drug diversion then it is the family responsibility to adhere to court mandated requirements and furnish to the PHA proof that the charge was dismissed. Failure to comply with drug diversion will result in termination. Drug diversion will be granted once in a lifetime while on program. The PHA may terminate assistance for criminal activity by a household member as authorized in this section if the PHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity [24 CFR 982.553 (c), 24 CFR 966.4]. Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probably than not.

The intent is not to prove criminal liability, but to establish that the act(s) occurred.

Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence. Credible evidence may be obtained from police and/or court records.

Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

Criminal activity as listed above, misdemeanor and felony the same, will hereinafter be called "prohibited criminal activity." "Minor traffic offenses" may include offenses such as parking violations, registration violations or failure to provide proof of insurance. Traffic offenses that include illegal use of controlled substances or alcohol related violations of traffic laws are not considered minor. Two or more alcohol related criminal actions within the last five year period constitute an abuse of alcohol. All persons receiving rental assistance, regardless of age, will be held to the same standard. Persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing will be permanently denied admission to any federally assisted housing program. Persons convicted of sex offenses that require a lifetime registration as a sex offender are prohibited from participation in any housing assistance programs administered by the Housing Authority in accordance with Federal Regulations. Exceptions in this policy do not apply to registered sex offenders or any person who was convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing. The Violence Against Women Act (VAWA) prohibits the eviction of, and removal of assistance from, victims living in public or Section 8 assisted housing if the asserted grounds for such action is an instance of domestic violence, dating violence, sexual assault, or stalking.

**BACKGROUND**

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The primary mission of the Housing Authority is to assist low and moderate income families, including elderly and disabled persons, by operating programs which provide them decent, safe and sanitary housing at affordable costs. The programs currently administered by the Housing Authority include the following: Section 8 Housing Choice Voucher, Affordable Public Housing, MOD Rehab, Project-based, Family Unification, Housing Opportunities for Persons with Aids (HOPWA), Shelter Plus Care and Mainstream Vouchers.

### **POLICY**

It is the policy of the Housing Authority of the County of Riverside that:

Prohibited criminal activity will not be tolerated. The Housing Authority will foster crime-free housing by implementing aggressive strategies which will reflect a zero tolerance of prohibited criminal activity by:

The Housing Authority may deny or terminate assistance to any household containing a member that has a history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants. {24 Code of Federal Regulations (CFR) 982.553 (c); 24 CFR 960.202 (a) (2) iii & 24 CFR 203c}.

1. Denying or terminating rental assistance to all households containing a member that has engaged in prohibited criminal activity, unless that member can demonstrate the following:
  - a. Evidence of crime-free living within the last five years and no occurrence of criminal behavior (other than minor traffic offenses), **and**
  - b. Applicant/tenant must not have been incarcerated (in custody or doing any jail time) during the last five years for any action related to any prohibited criminal activity; **and**
  - c. Applicant/tenant would not threaten the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (i.e. gang related activity); **and**
  - d. Satisfactory adherence to all court and probation/parole mandated conditions for any action related to any prohibited criminal activity;
  - e. For drug-related criminal activity (Evidence of drug-related activity (use/possession of drugs and/or drug-related paraphernalia): The HA may consider enrollment in a court ordered drug rehabilitation/diversion program if there is an active drug-related charge against the applicant/participant. At PHA discretion, first offenders may be only granted an exception to the Zero Tolerance Policy only once (1) per Lifetime due to participation in court ordered drug rehabilitation/diversion program. Approval is not automatic. Repeat or habitual offenders will not be granted an exception to our Zero Tolerance Policy and rental assistance will be denied and/or terminated. The participant cannot elect to join a drug rehabilitation/diversion program in lieu of termination of assistance after the HA has discovered illegal drug-related activity.

## Housing Authority of the County of Riverside Administrative Plan

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For consideration of one lifetime exception to our Zero Tolerance Policy, the following conditions must exist:

- i. The applicant/participant must be a first time participant in a court ordered drug rehabilitation program for any drug-related offense that they are requesting an exception to our Zero Tolerance Policy, **and**
- ii. The applicant/participant must have enrolled in the court ordered drug rehabilitation program prior to the date of the HA's discovery of the drug-related activity, **and**
- iii. Completion of the program must be achieved within the allowed time by the courts, **and**
- iv. Evidence of completion must be provided to the HA within 10 calendar days from the date of completion of the program.

If an exception to our Zero Tolerance Policy is granted by the PHA, the PHA will monitor compliance at the next regularly scheduled re-examination for determination of rental assistance eligibility.

2. Denying or terminating tenancy, in any Housing Authority owned rental unit, to any household containing a member that has engaged in prohibited criminal activity, and who has a history or pattern of criminal activity which would adversely affect the health, safety, or welfare of other tenants, unless that member can demonstrate the following:
  - a. Evidence of crime-free living within the last five years and no occurrence of criminal behavior (other than minor traffic offenses), **and**
  - b. Applicant/tenant must not have been incarcerated (in custody or doing any jail time) during the last five years for any action related to any prohibited criminal activity; **and**
  - c. Applicant/participant would not be a detriment to the health, safety, or welfare of his/her neighbors or the community in which they live; whose expected behavior would not have an adverse influence upon sound family and community life; who would not be a source of danger to the peaceful occupancy by the other tenants or cause damage to the premises or property of the Housing Authority or the immediate vicinity; **and**
  - d. Satisfactory adherence to all court and probation/parole mandated conditions for any action related to any prohibited criminal activity;
  - e. For drug-related criminal activity (Evidence of drug-related activity (use/possession of drugs and/or drug-related paraphernalia): The HA may consider enrollment in a court ordered drug rehabilitation/diversion program if there is an active drug-related charge against the applicant/participant. At PHA discretion, first offenders may be only granted an exception to the Zero Tolerance Policy only once (1) per Lifetime due to participation in court ordered drug rehabilitation/diversion program. Approval is not automatic. Repeat or habitual offenders will not be granted an exception to our Zero Tolerance Policy and rental assistance will be denied and/or terminated. The participant cannot elect to join a drug rehabilitation/diversion program in lieu of termination of assistance

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after the HA has discovered illegal drug-related activity.

For consideration of one lifetime exception to our Zero Tolerance Policy, the following conditions must exist:

- i. The applicant/participant must be a first time participant in a court ordered drug rehabilitation program for any drug-related offense that they are requesting an exception to our Zero Tolerance Policy, **and**
- ii. The applicant/participant must have enrolled in the court ordered drug rehabilitation program prior to the date of the HA's discovery of the drug-related activity, **and**
- iii. Completion of the program must be achieved within the allowed time by the courts, **and**
- iv. Evidence of completion must be provided to the HA within 10 calendar days from the date of completion of the program.

If an exception to our Zero Tolerance Policy is granted by the PHA, the PHA will monitor compliance at the next regularly scheduled re-examination for determination of rental assistance eligibility.

3. Criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, sexual assault, or stalking, provided that the victim member demonstrates the following:
  - a. The perpetrator of the domestic violence no longer resides in the assisted unit.
  - b. Applicant/tenant requesting exception based on 3 above shall complete HUD form 50066 within 14 business days after the HA has requested such certification in writing.
  - c. If the applicant/tenant does not provide the certification within 14 business days after the HA has requested such certification in writing, assistance may be denied/terminated.
4. Alerting all rental assistance program participants and tenants residing in Housing Authority owned housing about their obligation to keep rental units free from prohibited criminal activity.
5. Incorporating the HUD required Tenancy Addendum which includes grounds for termination of tenancy due to criminal activity into all rental leases used by the Housing Authority and requiring the use of said Tenancy Addendum for all private rental property owners in the county.
6. Conducting workshops for rental property owners and managers to stress the importance of screening potential tenants, inspecting the premises of rental property, and taking action against tenants engaged in criminal activity, fraud, or side payments.

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7. Seeking a collaborative relationship with all law enforcement agencies within the County of Riverside and the Office of Inspector General to assist in the enforcement of this Amended Policy on Zero Tolerance Policy of Criminal Activity.
8. Screening all housing program applicants and participants including but not limited to the Riverside Superior Court online system, Consolidated Courts of the County of San Bernardino online system, Consolidated Courts of the County of Los Angeles online system, National Credit Reporting (or similar service), any and all available Sex Offender registries, and any other available sources (i.e. police reports, court records, information that is independently verifiable, law enforcement investigations and arrest warrants) to disclose any criminal background information.
9. Providing the Riverside County Sheriff Department with requested incident reports from Public Housing properties, to be used by the Crime Analysis unit in identifying crime patterns, series, and other potential problems.

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**APPENDIX D: REASONABLE STEPS TO AFFIRMATIVELY FURTHER FAIR HOUSING**

The Housing Authority of the County of Riverside (HACR) in the administration of all programs strives to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act by taking steps to:

- Overcome the effects of impediments to fair housing choice;
- Remedy discrimination in housing; and
- Promote fair housing rights and fair housing choice.

Specific steps include:

1. Marketing HACR programs to all eligible persons, including persons with disabilities and persons with limited English proficiency.

All HACR programs (Section 8, Public Housing, Mod-Rehab, Housing Opportunities for Persons With AIDS, Shelter Plus Care, Family Self Sufficiency, Homeownership, and other specialized grant funded programs) will be marketed to all eligible persons, including persons with disabilities and persons with limited English proficiency. This marketing and outreach will include newspaper notices including publications in minority newspapers, outreach to community groups that serve persons with disabilities and persons with limited English proficiency, postings on the HACR website ([www.harivco.org](http://www.harivco.org)), and lobby signs posted in our office locations. Persons with disabilities will be assisted in the application process if requested as a reasonable accommodation. Translation services are available to persons with limited English proficiency at no cost to the participant. HACR also employs several bi-lingual staff members who regularly provide assistance to Spanish speaking applicants/participants.

2. Utilizing buildings and communications that facilitate service delivery to persons with disabilities.

Application intake, office appointments, voucher/contract issuance, and informal hearings are all conducted in accessible office spaces. HACR also provides home visits for appointments upon request as a reasonable accommodation. Sign language and Braille services are also available if necessary to service hearing and visually impaired persons.

3. Supporting and expanding housing choice through landlord outreach, participant education, and security deposit assistance

HACR conducts workshops for prospective and exiting landlords to educate them on the Section 8 program and HUD guidelines. Participants receive information on housing choice and housing opportunities at all briefing sessions. Additionally, HACR administers a security deposit assistance program for new participants to support housing choice efforts.



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### 4. Referrals to fair housing agencies

Referrals to fair housing agencies are available upon request. Additionally, staff will advise participants to seek fair housing services if a situation arises that warrants such as referral (i.e. landlord/tenant issue, questions regarding tenant rights, renters rights in foreclosure).

### 5. Informing participants on how to file a fair housing complaint.

The HUD fair housing form is provided to applicants/participants in the applicant briefing packet and upon request. Fair housing notices are posted in all office locations. Applicants/participants are provided assistance in filling out the form and are referred to HUD for additional information and assistance. The toll-free number for the Housing Discrimination Hotline is posted in office lobbies and also provided in briefing packet materials.

### 6. Staff training

All HACR staff members are informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all participants, including providing reasonable accommodations to persons with disabilities, as part of the agency's overall commitment to quality customer service. Staff is regularly trained on local, state, and federal fair housing laws and issues.

7. The Family Self Sufficiency (FSS) program is an important program for promoting housing opportunities, housing choice, and housing mobility through self-sufficiency. As such, HACR will take additional steps to ensure that this program is administered in a manner that affirmatively furthers fair housing. This includes:

- Advertising widely in the community for the FSS Coordinator Position if a vacancy should occur.

Whenever a FSS coordinator position is available and advertised, HACR will advertise throughout the community allowing all interested parties an opportunity to apply. Notices are published in the local newspapers, posted on the County of Riverside website, and distributed among HACR employees. Consideration will be given to qualified applicants who have experience in fair housing issues, housing counseling, and/or are bi-lingual.

- Marketing the FSS program to all eligible persons, including persons with disabilities and persons with limited English proficiency.

The FSS program will be marketed to all eligible persons, including persons with disabilities and persons with limited English proficiency. HACR markets the FSS program through periodic mailings to all Housing Choice Voucher (HCV) participants; announcements and program descriptions provided in briefing sessions and annual recertification packets; and lobby signs posted in our office locations. Translation services are available to persons with limited English proficiency at no cost to the participant. In addition, HACR employs several bi-lingual staff members who regularly provide assistance to Spanish speaking participants.

- Promoting fair housing in homeownership

The FSS program has a goal of homeownership and housing mobility. To support this goal, HACR employs a full-time Homeownership Coordinator to assist FSS participants with achieving home ownership. FSS participants enrolled in the homeownership program receive information on fair lending practices and laws.

### 8. Record Keeping

HACR will maintain a record of the following information for all participants: the race, ethnicity, familial status, and disability status of program participants; any reasonable accommodation requests and the disposition of each; and the employment status of all participants. Program information will be reviewed on an ongoing basis for program reporting and planning.

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**APPENDIX E: PROGRAM INTEGRITY MONITORING (PIM)**

[24 CFR 792.101 to 792.204, 982.54]

**INTRODUCTION**

The U.S. Department of HUD conservatively estimates that 200 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement.

The HA is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained. The HA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This chapter outlines the HA's policies for the prevention, detection and investigation of program abuse and fraud.

**A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD**

The HA's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. The HA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the HA has a responsibility to HUD, the County of Riverside, and to eligible families in need of housing assistance, to monitor participants and owners for compliance and, when indicators of possible abuse come to the HA's attention, to investigate such claims.

The HA will initiate an investigation of a participating family in the event of one or more of the following circumstances:

**1. Referrals, Complaints, or Tips**

The HA will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file in such a way as to protect and observe the confidentiality of the informant.

**2. Internal File Review**

A follow-up will be made if HA staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review), information or facts which conflict with previous file data, the HA's knowledge of the family, or is discrepant with statements made by the family.

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### **3. Verification of Documentation**

A follow-up will be made if the HA receives independent verification or documentation which conflicts with representations in the family's file (such as public record information or credit bureau reports, reports from other agencies).

### **B. STEPS THE HA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD**

The HA management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing program education as the primary means to obtain compliance by families.

#### **1. Things You Should Know**

This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify the HA's expectations for cooperation and compliance.

#### **2. Program Orientation Session**

Mandatory orientation sessions will be conducted by the HA staff for all prospective program participants, either prior to or upon issuance of a voucher. At the conclusion of all Program Orientation Sessions, the family representative will be required to sign a "Program Briefing Checklist Certificate" to confirm that all rules and pertinent regulations were explained to them.

#### **3. Resident Counseling**

The HA will encourage participants to attend regularly scheduled program briefings as a part of the recertification process in order to clarify any confusion pertaining to program rules and requirements.

#### **4. Review and Explanation of Forms**

At appropriate times and/or at the family's request staff may explain all required forms and review the contents of all (re)certification documents prior to signature.

#### **5. Use of Instructive Signs and Warnings**

Instructive signs such as the "Things you should Know" form will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse

#### **6. Participant Certification**

All family representatives will be required to sign a "Briefing Checklist" and "Family Obligations" form, as contained in HUD's Participant Integrity Program Manual.

### **C. STEPS THE HA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD**

The HA Staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

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### **1. Quality Control File Reviews**

Prior to initial certification, and at the completion of all subsequent recertifications, a percentage of files will be reviewed. Such reviews shall include, but are not limited to:

- Assurance that verification of all income and deductions is present.
- Changes in reported Social Security Numbers or dates of birth.
- Authenticity of file documents.
- Ratio between reported income and expenditures.
- Review of signatures for consistency with previously signed file documents.
- All forms are correctly dated and signed.

### **2. Observation**

The HA Management and Occupancy Staff (to include inspection personnel) will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income. Observations will be documented in the family's file.

### **3. Public Record Bulletins**

Public Record Bulletins may be reviewed by Management and Staff.

### **4. State Wage Data Record Keepers**

Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

### **5. Credit Bureau Inquiries**

Credit Bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:

- At the time of final eligibility determination
- When an allegation is received by the HA wherein unreported income sources are disclosed.
- When a participant's expenditures exceed his/her reported income, and no plausible explanation is given.

## **D. THE HA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD**

The HA staff will encourage all participating families to report suspected abuse to **the Program Integrity Monitoring (PIM) division**. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented, remain anonymous and/or placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. The **HA Staff** will not follow up on allegations which are vague or otherwise non-specific. They will only review allegations which contain one or more independently verifiable facts.

### **1. File Review**

An internal file review will be conducted to determine if the subject of the allegation is a client of the HA and, if so, to determine whether or not the information reported has been previously

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disclosed by the family. It will then be determined if the HA is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

### **2. Conclusion of Preliminary Review**

If at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the HA Staff will initiate an investigation to determine if the allegation is true or false.

### **E. OVERPAYMENTS TO OWNERS**

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the HA may terminate the Contract and arrange for restitution to the HA and/or family as appropriate. The HA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the HA or the tenant, as applicable.

### **F. HOW THE HA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD**

If the HA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file, or a person designated by the Executive Director to monitor the program compliance will conduct the investigation. In all cases, the HA will secure the written authorization from the program participant for the release of information. The steps taken will depend upon the nature of the allegation and may include, but are not limited to:

#### **1. Credit Bureau Inquiries (CBI)**

In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

#### **2. Verification of Credit**

In cases where the financial activity conflicts with file data, a *Verification of Credit* form may be mailed to the creditor in order to determine the unreported income source.

#### **3. Employers and Ex-Employers**

Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.

#### **4. Neighbors/Witnesses**

Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the HA's review.

#### **5. Other Agencies**

Investigators, case workers or representatives of other benefit agencies may be contacted.

#### **6. Public Records**

If relevant, the HA will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage

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records, utility records, postal records,

### **7. Department of Motor Vehicles (DMV)**

In cases involving suspected unauthorized tenants and/or unreported vehicles.

### **8. Enterprise Income Verification (EIV) reports**

In cases involving unreported income and/or unreported employers

### **9. Interviews with Head of Household or Family Members**

The HA will discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the appropriate HA office. A high standard of courtesy and professionalism will be maintained by the HA staff person who conducts such interviews. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

### **10. Other**

The HA may use any other resources or tools available.

## **G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE HA**

Documents and other evidence obtained by the HA during the course of an investigation will be considered "work product" and will either be kept in the participant's file, or in a separate "work file." In either case, the participant's file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among HA Staff unless they are involved in the process, or have information which may assist in the investigation.

## **H. CONCLUSION OF THE HA'S INVESTIGATIVE REVIEW**

At the conclusion of the investigative review, the reviewer will report the findings to the Executive Director or designee. It will then be determined whether a violation has occurred, a violation has not occurred, or if the facts are inconclusive.

## **I. EVALUATION OF THE FINDINGS**

If it is determined that a program violation has occurred, the HA will review the facts to determine:

- The type of violation (procedural, non-compliance, fraud).
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the family.
- If the family is eligible for continued occupancy.

## **J. ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN DOCUMENTED**

Once a program violation has been documented, the HA will propose the most appropriate remedy based upon the type and severity of the violation.

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### **1. Procedural Non-compliance (Pre-termination of Assistance Appointment)**

This category applies when the family "fails to" observe a procedure or requirement of the HA, but does not misrepresent a material fact, and there is no retroactive assistance payments owed by the family. Examples of non-compliance violations are:

- Failure to appear at a pre-scheduled appointment.
- Failure to return verification in time period specified by the HA.

#### **(a) Warning Notice to the Family**

In such cases a notice will be sent to the family which contains the following:

- A description of the non-compliance and the procedure, policy or obligation which was violated.
- The date by which the violation must be corrected, or the procedure complied with.
- The action which will be taken by the HA if the procedure or obligation is not complied with by the date specified by the HA.
- The consequences of repeated (similar) violations.

### **2. Procedural Non-compliance - Overpaid Assistance.**

When the family owes money to the HA for failure to report changes in income or assets, the HA will issue a Pre-termination of Assistance Appointment. This Notice will contain the following:

- A description of the violation and the date(s).
- Any amounts owed to the HA.

#### **(a) Participant Fails to Comply with HA's Notice**

If the Participant fails to comply with the HA's notice, and a family obligation has been violated, the HA will initiate termination of assistance (Intent to Terminate Assistance letter). The family will be given the right to disagree and to request an informal hearing with instructions for the request of such hearing.

#### **(b) Participant Complies with HA's Notice**

When a family complies with the HA's notice, the staff person responsible will meet with him/her to discuss and explain the Family Obligation or program rule which was violated. The staff person will counsel the participant and may require that they sign Certified Statements regarding their family obligations with the understanding that future incidents may result in termination.

### **3. Intentional Misrepresentations**

When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the HA, the HA will evaluate whether or not:

- The participant had knowledge that his/her actions were wrong, and
- The participant willfully violated the family obligations or the law.

#### **(a) Knowledge that the action or inaction was wrong**

This will be evaluated by determining if the participant was made aware of program



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requirements and prohibitions. The participant's signature on various certifications, briefing checklist certificate, Personal Declaration and Things You Should Know are adequate to establish knowledge of wrong-doing.

### **(b) The participant willfully violated the law**

Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the participant of the misrepresentation.
- That the act was done repeatedly.
- If a false name or Social Security Number was used.
- If there were admissions to others of the illegal action or omission.
- That the participant omitted material facts which were known to him/her (e.g., employment of self or other household member).
- That the participant falsified, forged or altered documents.
- That the participant uttered and certified to statements at a interim (re)determination which were later independently verified to be false.

### **4. Dispositions of Cases Involving Misrepresentations**

In all cases of misrepresentations involving efforts to recover monies owed, the HA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

#### **(a) Criminal Prosecution**

If the HA has established criminal intent, and the case meets the criteria for prosecution, the HA will:

- Refer the case to the local State or District Attorney, notify HUD's Office of the Inspector General (OIG), and terminate rental assistance.
- Refer the case to HUD's OIG, and terminate rental assistance.

#### **(b) Administrative Remedies**

The HA will:

- Terminate assistance and demand payment of restitution in full.
- Terminate assistance and execute an administrative repayment agreement in accordance with the HA's Repayment Policy.
- Terminate assistance and pursue restitution through civil litigation.
- Continue assistance at the correct level upon repayment of restitution in full.
- Permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with the HA's repayment policy.

### **5. The Case Conference (Meeting) for Serious Violations and Misrepresentations**

When the HA has established that material misrepresentation(s) have occurred, a Case Conference will be scheduled with the family representative and the HA staff person who is most knowledgeable about the circumstances of the case.

This conference will take place prior to any proposed action by the HA. The purpose of such conference is to review the information and evidence obtained by the HA with the participant, and to provide the participant an opportunity to explain any document findings which conflict