COURT ORDER 2025-0854

Authorize and approve revision to the FY2025 Dallas County Health and Human Services Housing Choice Voucher Program (HCVP) Administrative Plan

On a motion made by Commissioner Dr. Elba Garcia, and seconded by Commissioner Andrew Sommerman, the following order was passed and adopted by the Commissioners Court of Dallas County, State of Texas:

BRIEFING DATE: August 5, 2025
FUNDING SOURCE: N/A

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve the revisions to the FY2025 DCHHS Housing Choice Voucher Program Administrative Plan and authorize the County Judge to electronically certify.

Done in open Court August 5, 2025 by the following vote:

IN FAVOR:	County Judge Clay Jenkins, Commissioner Dr. Theresa Daniel, Commissioner John Wiley Price, Commissioner Dr. Elba Garcia, and Commissioner Andrew Sommerman
OPPOSED:	None
ABSTAINED:	None
ABSENT:	None

Recommended by: Philip Huang, MD, MPH
Originating Department: Health and Human Services

Dallas County

BRIEFING / COURT ORDER

Commissioners Court - Aug 05 2025

☐ Resolution
☐ Solicitation/Contract
☐ Executive Session
☒ Addendum

Authorize and approve revision to the FY2025 Dallas County Health and Human Services Housing Choice Voucher Program (HCVP) Administrative Plan

Briefing Date:	Aug 5 2025
Funding Source:	N/A
Originating Department:	Health and Human Services
Prepared by:	Essence Thomas, Contracts Management
Recommended by:	Philip Huang, MD, MPH, HHS Director

BACKGROUND INFORMATION:

Dallas County Health and Human Services (DCHHS) is required by the U.S. Department of Housing and Urban Development (HUD), as specified in 24 CFR 982.54, to revise the Housing Choice Voucher Program (HCVP) Administrative Plan. DCHHS has revised the Housing Choice Voucher Program (HCVP) Administrative Plan to include a provision, as detailed in Attachment A.

OPERATIONAL IMPACT:

The revised Administrative Plan incorporates a local preference in accordance with HUD Notice PIH 2025-19, allowing Dallas County Health and Human Services (DCHHS) to support the continuity of housing assistance for Emergency Housing Voucher (EHV) families at risk of losing support due to the phase-out of EHV funding. This policy revision strengthens the agency's ability to preserve housing stability by prioritizing transitioning EHV households onto the Housing Choice Voucher (HCV). It ensures a seamless transfer of eligible families into the regular HCV program without requiring them to reapply through the standard process. The adoption of this preference aligns with HUD guidance and promotes the full utilization of allocated voucher resources while preventing housing disruptions for vulnerable populations.

FINANCIAL IMPACT:

There is no financial impact on Dallas County.

LEGAL IMPACT:

The revised Administrative Plan will maintain and establish compliance of the DCHHS Housing Choice Voucher Program with HUD Federal regulations. There is no legal impact on Dallas County.

PROJECT SCHEDULE:

N/A

SBE PARTICIPATION:

N/A

MISSION, VISION, VALUE COMPLIANCE:

This briefing item will enable the Department to deliver professional and exceptional services to promote a thriving community while further improving people's lives.

RECOMMENDATION:

It is recommended that the Dallas County Commissioners Court does hereby approve the revisions to the FY2025 DCHHS Housing Choice Voucher Program Administrative Plan and authorize the County Judge to electronically certify.

MOTION:

On a motion made by TBD, and seconded by TBD, the following order will be voted on by the Commissioners Court of Dallas County, State of Texas:

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve the revisions to the FY2025 DCHHS Housing Choice Voucher Program Administrative Plan and authorize the County Judge to electronically certify.

ATTACHMENTS:

A
FY-2025_Revisions_updated 7-2025-4th Sub to Comm Crt w - HOTMA Revisions 2
FY2025_Admin. Plan_updated_7-2025- 4th Sub to Com Crt w-HOTMA updates 2

ATTACHMENT A:

Revisions to the FY2025 HCVP Administrative Plan

Dallas County
Health and Human Services – Housing Division
Housing Choice Voucher Program
Administrative Plan Revisions 2025

G. Emergency Housing Voucher (EHV) Waiver **(Page 7)**

In accordance with HUD Notice PIH 2025-19, Dallas County Health and Human Services (DCHHS) is adopting a local preference to assist currently housed Emergency Housing Voucher (EHV) families who are at risk of losing their housing assistance due to the wind-down of EHV funding.

The EHV preference on the Housing Choice Voucher (HCV) waiting list will be reserved exclusively for the transitioning of EHV families whose assistance is at risk of termination due to lack of program funding.

Upon successful transition of an EHV family to the regular HCV program:

1. The family is considered a regular HCV participant and is subject to the standard policies, procedures, and preferences of the HCV program.
2. The family is no longer subject to the EHV preference or priority on the HCV waiting list.
3. The agency will not require the family to go through the HCV waiting list under the EHV preference for continued assistance once transitioned.

(See Exhibit GG - HUD Notice PIH 2025-19)
(See Guidance on Transitioning EHV Families into HCV) page 290

(See Exhibit GG) ***(Page 283 - 289)***

Guidance on Transitioning EHV Families into HCV **(Page 290)**

DALLAS COUNTY
HEALTH AND HUMAN SERVICES

HOUSING CHOICE VOUCHER PROGRAM

ADMINISTRATIVE PLAN- HOTMA-(2)

Dallas County Housing Agency
2377 North Stemmons Freeway, Suite 700
Dallas, Texas 75207-2710
2025

Table of Contents

Dallas County Housing Agency vi

Goal…… vi

Organization Chart…… vii

Section I. Introduction 1

A. Equal Opportunity……..1

B. The Quality Housing and Work Responsibility Act of 1998 (QHWRA) and Merger of the Certificate and Voucher Program……3

C. President Obama signed into law the Violence Against Women Reauthorization Act of 2013 (VAWA 2013)……..3

D. How Applicants Are Selected [982.202 (a) (2)]……4

E. Waivers and Alternative Requirements for Mainstream Vouchers……..5

F. Statutory and Regulatory Waivers for Family Unification Program (FUP) and Foster Youth to Independence (FYI) Vouchers……6

G. Emergency Housing Voucher (EHV) Waiver……7

Section II. Applications and Waiting List Management..... 7

A. Admission from the Waiting List [24 CFR 982.204 -210]..... 7

B. Organization of Waiting List [24 CFR 982.204] 8

C. Eligibility and Targeting [24 CFR 982.201] 8

Section III. Eligibility and Verification of Family Circumstances 9

A. Waiting List [24 CFR 982.204(a)] 9

B. Scheduling the Eligibility Interview 9

C. Conducting the Eligibility Interview..... 10

D. Determining Eligibility [24 CFR 982.201]..... 12

E. Grounds for Denial [24 CFR 982.552 and 24 CFR 553]..... 14

Mandatory Denial……16

F. Informal Reviews [24 CFR 982.554] 17

Section IV. Issuing Housing Choice Vouchers 17

A. Subsidy Standards [24 CFR 982.402]..... 17

B. Information When Family is Selected [982.301]……20
C. Issuing Housing Choice Vouchers [24 CFR 982.302] 21
D. Term of the Housing Choice Voucher [24 CFR 982.303 and 24 CFR 982.54 (d)(2)] ... 22
E. Assistance to Families Subjected to Illegal Discrimination [24 CFR 982.304]..... 23
Section V. Leasing Units 23
A. Contract and Relationship 23
B. Prospective Owners Requests for Information [24 CFR 982.301(7)] 23
C. Request for Tenancy Approval [24 CFR 982.305]..... 23
D. Housing Types [24 CFR 982.601(a)]..... 25
E. Voucher Tenancy: Payment Standards Amount and Sch [24CFR 982.503(b)]..... 25
F. **NSPIRE Standards** **24CFR 5.709** (~~**HQS**~~) [~~24 CFR 982.401~~]……..28
G. Maintenance: Owner and Family Responsibility; PHA Remedies. [24 CFR 982.404]……..... 31
H. Enforcement of **NSPIRE** ~~**HQS**~~ [24 CFR 982.406]..... 32
I. Rent to Owner: Reasonable Rent. (Refer to 24 CFR 982.507) 33
J. Disapproval of Owner/Landlord [24 CFR 982.306]..... 33
K. Owner Responsibilities [24 CFR 982.452]..... 34
L. Owner Breach of Contract [24 CFR 982.453]..... 34
M. Portability [24 CFR 982.353] 35
Section VI. Annual Functions 36
A. Enterprise Income Verification (EIV) 36
B. Family Income and Composition:Regular and Interim Reexaminations [24 CFR 982.516……37
C. Recertification and Interim of Family Eligibility 38
D. Decreases in Adjusted Income - HOTMA Regulations..... 40
E. HA Initial and Periodic Unit Inspection / Enforcement 41
Section VII. Changes in Family Size, Family Separations, Absences, and Moves 44
A. Changes in Family Size [24 CFR 982.505 (5)] 44
B. Addition of New Household Member 45
C. Family Break-Up [24 CFR 982.315(a)]..... 46
D. Absences from Unit [24 CFR 982.312]..... 47
E. Move with Continued Tenant-Based Assistance [24 CFR 982.314]..... 47
Section VIII. Evictions and Owner Obligations..... 48
A. Owner Termination of Tenancy [24 CFR 982.310]……..……..…48

Section IX. Family Obligations, Termination of Assistance, and Informal Hearings [24 CFR 982.551, 24 CFR 552, and 24 CFR 553] 49
A. Revocation of consent form(Form HUD-9886) 49
B. Obligations of participant (Family)[24CFR 982.551] 49
C. Terminations [24 CFR 982.551, 24 CFR 552, and 24 CFR 553] 52
D. Informal Hearings [24CFR 982.555 53

Section X. Dallas County Housing Agency Assistance Program (DCHA)- Project-Based Voucher Program 54
A. General 54
B. Goal of the Project- Based Assistance Program 55
C. Small Area Fair Market Rent (SAFMR) 55
D. Solicitation of Project Based Assistance Provider 56
E. PHA-Owned Units and Independent Entities 57
F. Selection of PBV Owner Proposal 58
G. Subsidy Layering Review(SLR) Prohibition of Excess Public Assistance 59
H. Environmental Review 60
I. Cap on Number of PBV Units in each Project 60
J. Housing Assistance Payment Contract 61
K. DCHA Monitoring of Supportive Services 64
L. Occupancy 65
M. ~~Housing Quality Standard~~(**~~HQS~~**) **NSPIRE** Inspections and Rent Reasonableness 70

Section XI. Program Management 72
A. Leasing Units 72
B. Payment of Utility Reimbursement [24 CFR 5.632 (b) 2] 73
C. Revising Utility Allowance Schedules [24 CFR 982.517] 73
D. Revising Voucher Payment Standards 73
E. Internal Control Procedures 74
F. Reserve 76
G. Renewal Funding and Line-Item Appropriations 78
H. Fraud Recovery [24 CFR 792.201 (Subpart B)] 81
I. HAP Disbursements 83
J. Termination of HAP Contract Insufficient Funding [24 CFR 982.454] 84

Section XII. Family Self Sufficiency Program Financial Management [24 CFR Part 984] 85

Section XIII. Section 8 Home Ownership Program 86
Section XIV. Expanding Housing Opportunities Through Mobility Counseling 99
Section XV.Resident Advisory Board 100
Section XVI.Disposition of Property (equipment and furniture over $5,000) 101
Section XVII. Affirmatively Furthering Fair Housing 101
Section XVIII. Confidentiality 101
Section XIV. Displacement Due to Disaster 101
Section XX. Limited English Proficiency (LEP) 101
Section XXI. Definitions 102
Exhibit A. Landlord Briefing Packet 115
Exhibit B. Income Limits 117
Exhibit C. Income Assets 118
Exhibit D. Briefing Package Contents 120
Exhibit E. Portability Procedures and Accounting System 123
Exhibit F. Initial Inspection of Units 126
Exhibit G. Annual Inspection of Units 127
Exhibit H. Reportable Income that is excluded from 50058 129
Exhibit I. Special Programs 131
Exhibit J. Utility Allowances 139
Exhibit K. Fair Market Rent 141
Exhibit L. Landlord Briefing Supplement 145
Exhibit M. Closure of Overpayment Form 147
Exhibit N. TITLE VII--PROTECTING TENANTS AT FORECLOSURE ACT 148
Exhibit O. The HA Action to Reduce HCV Program Costs [PIH 2009-44] 149
Exhibit P. Dallas County Housing Agency Code of Conduct 153
Exhibit Q. HUD-VASH Program 159
Exhibit R. Section Eight Management Assessment Program (SEMAP) 171
Exhibit S. New Housing Protections in VAWA 2013 176
Exhibit T. Guidance for PHA and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions 179
Exhibit U. Policy Guidance on College Student Admissions 187
Exhibit V. Amendment of the Definition of Tuition 193
Exhibit W. Confidentiality HUD Privacy Protection Guidance for Third Parties 198
Exhibit X. Eligibility of Independent Students for Assisted Housing 211

Exhibit Y. NOTICE PIH 2017-21 (HA)..... 213
Exhibit Z. Mainstream Vouchers ……...221
Exhibit AA. PIH Notice H 2023-10…….232
Exhibit BB. NOTICE PIH 2023-28 ……247
Exhibit CC. NOTICE PIH 2024 - 30 ……258
Exhibit DD. NOTICE PIH 2010 - 11 ……267
Exhibit EE. 2025 HUD Inflation-Adjusted Values (Table 1)……..271
Exhibit FF. PIH Notice 2025 - 08 Statutory and Regulatory Waivers (FUP)(FYI)…….274
Exhibit GG. PIH Notice 2025 - 19 Guidance on Transitioning EHV Families into HCV and End of EHV Services Fee Expenditure……..…….283
Guidance on Transitioning EHV Families into HCV……..……...290

Administrative Plan
Dallas County Housing Choice Voucher Program

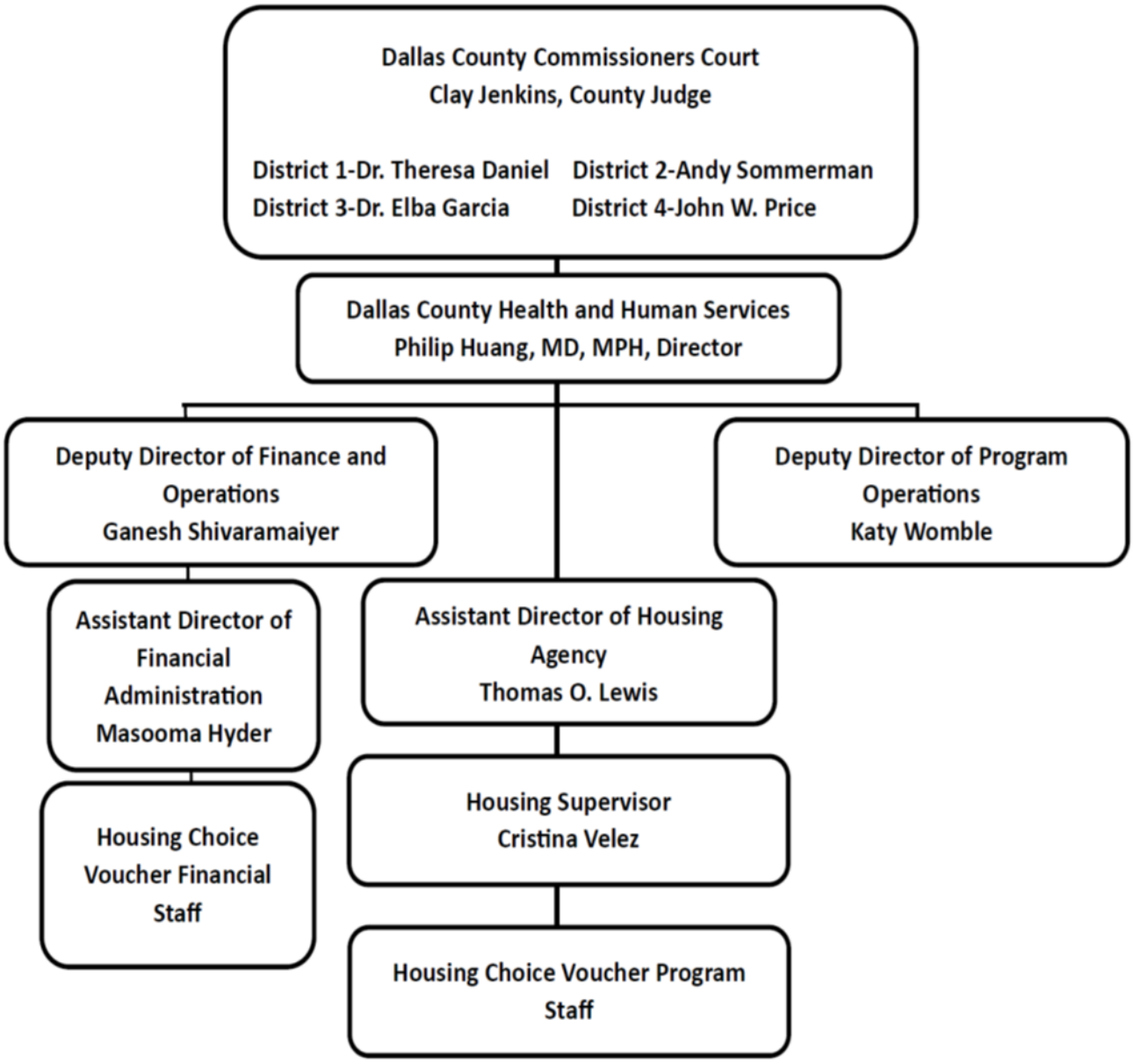
This Administrative Plan provides the guidelines for the operation of Dallas County's Housing Choice Voucher Program. Administration of this program is in compliance with the Department of Housing and Urban Development (HUD) regulations as specified in 24 CFR, HUD directives, Dallas County policy, and this Plan. Dallas County complies with all Federal, State and local housing regulations.

Goal

The goal is to provide safe, habitable dwellings that are functionally adequate, operable, and free of health and safety hazards to very low-income families otherwise incapable of obtaining adequate housing. The number of families served is limited only by the funding available through local, state and national programs, Dallas County's budget, and the availability of adequate housing.

Organizational Chart

Dallas County Housing Agency (DCHA) is part of the Dallas County System governed by the Dallas County Commissioners Court. DCHA is located within the Human Services Division of the Dallas County Health and Human Services Department. DCHA is managed by Assistant Director of Housing, who is accountable to the Director.



Dallas County Housing Voucher Program
Housing Choice Voucher Administrative Plan

Section I. Introduction

This Administrative Plan has been prepared by the Dallas County Housing Agency in conformance with the requirements of **24 CFR 982.54**. Certain procedural elements of the Housing process are described in administrative procedures referenced in this Plan. This Plan does not duplicate the requirements of the regulations cited below under which the program is administered. Rather, the plan indicates how the Dallas County Housing Agency is administering those aspects of the program left by HUD to the HA's discretion.

The plan sets forth HA's policies for the administration of the program in accordance with the requirements of the U. S. Department of Housing and Urban Development (HUD). Those requirements are incorporated by reference and not duplicated herein, as follows:

24 CFR 5 Definition of Income, Income Limits, Rent, and Regular Re- examination of Family Income for the Section 8 Housing Assistance Payments Program and other Related Programs

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

24 CFR 984 Section 8 and Public Housing Family Self-Sufficiency Program

24 CFR 985 Section 8 Management Assessment Program (SEMAP)

The Plan is presented in the sequence in which events usually occur in the Housing process. It is intended only to establish local policies for the administration of the program, and should not be considered an exhaustive treatment of the procedures by which these policies are implemented. The Plan is to be implemented using separate standard operating procedures which may be referenced in the Plan.

A. Equal Opportunity

1. Fair Housing

It is the policy of the HA to comply fully with all Federal, State, and local nondiscrimination laws, including but not limited to, Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person shall, on the ground of race, color, sex, religion, national origin, familial status, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to, discrimination under any HA housing programs.

To further its commitment to full compliance with applicable Civil Rights laws, the HA will provide Federal/State/local information to applicants for and participants in the

Housing Program regarding unlawful discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint forms will be made available at the HA office. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

The HA will assist any family that believes they have suffered illegal discrimination by providing them copies of the housing discrimination form. The HA will also assist them in completing the form, if requested, and will provide them with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

2. Reasonable Accommodation [24 CFR 8.20, 8.21, 8.24, 8.28 and 8.33]

Sometimes, people with disabilities may need a reasonable accommodation in order to take full advantage of the HA housing programs and related services. When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program fully accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines the HA will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, the HA will ensure that all applicants/participants are aware of the opportunity to request reasonable accommodations through information provided at the client briefing.

A request for reasonable accommodation must be submitted in writing by the person with the disability, a family member or someone who is acting on behalf of the person with the disability. The request must be in a manner that a reasonable person would understand it to be a request for an exception, change, or adjustment to a rule, policy, practice, or service because of a disability. The HA will obtain information in the form of third-party verification, from a medical professional in the field of the disability. That is necessary to evaluate if requested reasonable accommodation may be necessary because of the disability. To show that requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability. Information obtained will be kept confidential unless disclosure is required by law (e.g. a court-issued subpoena requiring disclosure). The HA will give appropriate consideration to each request for reasonable accommodation.

The HA may deny a request if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation. In addition, a request may be denied if providing the accommodation is not reasonable. Through the annual reexamination process, an assessment will be made of the need to continue the accommodation, if applicable.

In addition to a doctor's statement DCHA requires a household member to provide a Social Security Award Letter to qualify for reasonable accommodation.

A PHA may approve a payment standard amount up to 110 percent of the published fair market rent (FMR) if its payment standards are set below 110 percent of the

FMR in accordance with 24 CFR § 982.505(d). Such higher payment standards must be requested by the family and subsequently approved, as necessary, by the PHA after a family with a disabled person or an individual person with disabilities locates a unit.

3. 504 Coordinator [24 CFR 8.53]

The HA has a designated employee to coordinate compliance with Section 504 [24 CFR 8.53]. The 504 Coordinator will be responsible for reviewing reasonable accommodations and modification request by the HA's applicants/tenants.

To show that a requested accommodation may be necessary, there must be an identifiable relationship (or "nexus") between the requested accommodation and the limitation or barrier posed by the individual's disability.

B. The Quality Housing and Work Responsibility Act of 1998 (QHWRA) and Merger of the Certificate and Voucher Program

In October 1998, Congress passed housing reform legislation, including a full merger of the certificate and voucher programs. This legislation eliminated all differences and required that the subsidy types merge into one housing choice voucher program.

In May 1999, HUD published an interim rule providing for the complete merger of the certificate and voucher program. This interim rule was effective October 1, 1999, which is known as the merger date. date.

C. President Obama signed into law the Violence Against Women Reauthorization Act of 2013 (VAWA 2013)

On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). VAWA 2013 implemented several key changes related to housing protections for victims of domestic violence, dating violence, sexual assault or stalking. (See New Housing Protection in VAWA, Exhibit S)

In accordance with VAWA, it is the policy of the HA to protect clients and family members of clients who are victims of domestic violence, victims of sexual assault (any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent) dating violence, or stalking, from being evicted or terminated from housing assistance based on acts of such violence against them.

Criminal activity directly relating to domestic violence, sexual assault, dating violence, or stalking, engaged in by a member of a client's household or any guest

or other person under the client's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the client or an affiliated individual of the client's family is the victim or threatened victim of that abuse. Affiliated Individual - (A) a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis; or (B) any individual, tenant, or lawful occupant living in the individual's household of that individual." An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease by the victim or threatened victim of that violence, and will not be "good cause" for termination of the assistance, tenancy, or occupancy rights of a victim of such violence.

A client must certify on a HUD form that he/she is a victim of domestic violence, sexual assault, dating violence, or stalking, and that the incident or incidences in question are bona fide incidences of such actual or threatened abuse. On the certification form, the individual must provide the name of the perpetrator(if known and can be safely disclosed).

1. A self-certification form (for example, Form-HUD 5382), which the covered housing provider must give you along with this notice. Either you can fill out the form or someone else can complete it for you.
2. A statement from a victim/survivor service provider, attorney, mental health professional or medical professional who has helped you address incidents of VAWA violence/abuse. The professional must state "under penalty of perjury" that he/she/they believes that the incidents of VAWA violence/abuse are real and covered by VAWA. Both you and the professional must sign the statement.
3. A police, administrative, or court record (such as a protective order) that shows you (or a household member) were a victim of VAWA violence/abuse; OR
4. If allowed by your covered housing provider, any other statement or evidence provided by you. The certification is due within 14 business days after the request is received by the victim.

If the individual does not provide the required form and supportive documentation by the 14th business day, or any extension of the date provided by the HA, none of the protections afforded to the victim of domestic violence, sexual assault, dating violence, or stalking, will apply.

D. How Applicants Are Selected [982.202 (a) (2)]

As a Waiting List Admission (see Sec. 982.204 through Sec. 982.210).
Dallas County Housing Agency (DCHA) admits an applicant for participation as a waiting list admission (see 982.204 through 982.210) DCHA does not have a preference for admission of families with certain characteristics from DCHA's waiting list, except for:

Dallas County will give preference to households who are homeless through setting aside 100 vouchers (depending on availability of funding and excluding VASH and

FUP voucher programs) for households who meet the following criteria.

1. Applicants meet the federal definition of homelessness, and

2. Are referred to Dallas County through the Continuum of Care's (CoC) Coordinated Access System (CAS), by the CoC Lead Agency (who operates CAS), with whom the county has executed a Memorandum of Understanding (MOU). The MOU will outline the CoC Lead Agency's responsibilities with respect to providing a primary point of contact for communicating about referrals to the County, as well as ensuring the provision of housing search assistance and supportive services/case management for the referred household.

The County will commit an initial allotment of 100 vouchers from the Housing Choice Voucher Program for Year 1 to the CoC upon execution of the MOU. If all 100 vouchers are used, and based upon funding availability, then 100 vouchers may be issued each year thereafter until the end of the Term, at the County's option. All vouchers issued hereunder will meet the following criteria:

1. Applicants meet the federal definition of homelessness or are transitioning from a CoC permanent housing program (such as Permanent Supportive Housing or Rapid Rehousing), and
2. Are referred to Dallas County through the CoC's Coordinated Access System (CAS), by the Housing Forward (the CoC Lead Agency).

E. Waivers and Alternative Requirements for Mainstream Vouchers

DCHA adopts Waivers and Alternative Requirements for Mainstream Vouchers

- **Initial search term**: DCHA waives the regulation that requires an initial search term of at least 60 days and establishes an alternative requirement that the initial search term for a Mainstream Voucher must be at least 120 days.

- **Extensions of term**: DCHA waives the ability for PHAs to grant first extensions at its discretion and establishes an alternative requirement for the process of requesting search extensions. PHAs must adopt an extension policy that includes the following:
    - Each extension must be for a minimum of 90 days
    - DCHA must approve the first extension request, regardless of how the request is made (written or verbal) or when it is made, as long as the request

is made on or before the term expiration date and is consistent with applicable requirements. Subsequent requests should be processed in accordance with DCHA's administrative plan.
    - DCHA must, on at least one occasion after voucher issuance, notify the family prior to the initial term expiration to remind them of the term expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search

- **Residency preference**: DCHA waives the ability for PHAs to establish a residency preference for Mainstream Voucher applicants and establishes an alternative requirement under which DCHA cannot apply a residency preference to Mainstream Voucher applicants.

(See Exhibit CC)

F. Statutory and Regulatory Waivers for Family Unification Program (FUP) and Foster Youth to Independence (FYI) Vouchers

Mandatory

- Residency preference: DCHA may not apply any residency preference to FUP and FYI vouchers applicants.

- Initial search term: DCHA must provide a minimum initial search term of 120 days for FUP and FYI vouchers applicants. This replaces the previous 60-day requirement.

- Extensions of term: DCHA must adopt an extension policy for FUP and FYI applicants that includes the following:
    - Each extension must be for a minimum of 90 days.
    - DCHA must approve the first extension request, whether it is written or oral, if made on or before the term expiration date. Subsequent requests should follow the DCHA administrative plan.
    - DCHA must, on at least one occasion after voucher issuance, notify the applicant prior to the initial term expiration to remind them of the term expiration date, the process for requesting an extension, and to inquire if the applicant needs assistance with their housing search.

Timing of referral of youth leaving foster care: DCHA must adopt a referral policy to accept referrals of youth, otherwise eligible for FUP and FYI vouchers, that are leaving foster care within 180 days. This replaces the previous 90-day requirement.

DCHA must adopt the mandatory alternative requirements within 120 days from publication of the notice.

FUP and FYI definition see definition section of Administrative Plan

G. Emergency Housing Voucher (EHV) Waiver

In accordance with HUD Notice PIH 2025-19, Dallas County Health and Human Services (DCHHS) is adopting a local preference to assist currently housed Emergency Housing Voucher (EHV) families who are at risk of losing their housing assistance due to the wind-down of EHV funding.

The EHV preference on the Housing Choice Voucher (HCV) waiting list will be reserved exclusively for the transitioning of EHV families whose assistance is at risk of termination due to lack of program funding.

Upon successful transition of an EHV family to the regular HCV program:

1. The family is considered a regular HCV participant and is subject to the standard policies, procedures, and preferences of the HCV program.
2. The family is no longer subject to the EHV preference or priority on the HCV waiting list.
3. The agency will not require the family to go through the HCV waiting list under the EHV preference for continued assistance once transitioned.

(See Exhibit GG - HUD Notice PIH 2025-19)
(See Guidance on Transitioning EHV Families into HCV) page 290

Section II. Applications and Waiting List Management

A. Admission from the Waiting List [24 CFR 982.204 -210]

1. HA's waiting list for the Housing Choice Program will remain closed until the HA determines that the number of applicants remaining on the list is insufficient to provide all the applicants needed for the next 12 months. The number needed will be based on the number of vouchers available or expected to become available over the next twelve months, the experience of the HA regarding the number of applicants who are expected to successfully complete the process of establishing their eligibility, and the number of eligible applicants who are expected to successfully lease units under the Housing Program. The HA's goal is to keep its utilization rate as high as possible.
2. Applications for the Housing Program can be made on-line, or in person, according to the method described in HA's advertisement. Reasonable accommodation will be made as described in HA advertisement for those persons with disabilities.
3. Applicants are placed on the waiting list based on the date and time of receipt of a completed application.
4. Any decision to close the waiting list, or to reopen the waiting list, will be recommended by HA's Executive Director.

5. The HA will determine that the list will reopen, and public notice of the opening will be made in the local newspaper of general circulation, and through such other media as determined necessary to reach potentially eligible households not otherwise likely to apply. The public notice will state the dates and times and the method by which applications will be accepted.

B. Organization of Waiting List [24 CFR 982.204]

Admission from waiting list. Participants must be selected from the PHA waiting list. The PHA must select participants from the waiting list in accordance with admission policies in the PHA administrative plan.

1. Applicant name;
2. Family unit size (number of bedrooms for which family qualifies under PHA occupancy standards).
3. Date and time of application;
4. Racial or ethnic designation of the head of household.
5. Receipt of all applications will be acknowledged by letter or postcard. The letter or postcard will advise applicants that it is their responsibility to notify DCHA of any change of address. If this notice is returned as undeliverable, it will be placed in the applicant's file. The applicant will remain on the waiting list.
6. DCHA does not purge the waiting list. Applicants will remain active until their number reaches the top of the waiting list.

C. Eligibility and Targeting [24 CFR 982.201]

When Applicant is Eligible: In general. The PHA may admit only eligible families to the program. To be eligible, an applicant must be a ''family;'' must be income-eligible, and must be a citizen or a noncitizen who has eligible immigration status [24 CFR 982.201(a)]

Income-Targeting [24 CFR 982.201 (a)(2)]

(i) Not less than 75 percent of the families admitted to a PHA's HCV program during the PHA fiscal year from the PHA waiting list shall be extremely low income families. Annual income of such families shall be verified within the period described in paragraph (e) of this section.

(ii) A PHA may admit a lower percent of extremely low-income families during a PHA fiscal year (than otherwise required under paragraph (b)(2)(i)) if HUD approves the use of such lower percent by the PHA, in accordance with the PHA plan, based on HUD's determination that the following circumstances necessitate use of such lower percent by the PHA:

1. Notwithstanding, an applicant based on time and date, the HA will select applicants from the waiting list in such a way as to ensure that at least 75% of the applicants admitted to the Housing Choice Voucher Program during any fiscal year are at or

below the Extremely Low Income (ELI) limit -- 30% of the median income for the Metropolitan Statistical Area—at the time of admission.

- At least 75% of the units leased through the voucher program in any fiscal year shall be provided to families with incomes below 30% of area median income; and
- Up to 25% of the units leased during the same period may be to families with incomes between 31% and 50% of area median income.

2. This income tier targeting requirement does not apply to a low-income family that is "continuously assisted" under the 1937 Act, or to 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 project-based eligible low-income housing. The family is considered "continuously assisted" if the family is already receiving assistance under any 1937 Act Program when the family is admitted to the voucher program.

Section III. Eligibility and Verification of Family Circumstances

A. Waiting List [24 CFR 982.204(a)]

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date when the waiting list is opened. [24 CFR 982.204(a)] The PHA will consider the following factors in determining which family retains their placement on the waiting list.

(1) the interest of any minor children, including custody arrangements.
(2) the interest of any ill, elderly or disabled family members.
(3) any possible risks to family members as a result of domestic violence or criminal activity; and
(4) the recommendations of social service professionals.

B. Scheduling the Eligibility Interview

1. When Housing Choice Vouchers become available, eligibility interviews will be scheduled for the applicants at the top of the waiting list.

2. Prior to sending the appointment letter, the HA will check the applicant names against its log of Housing Program reimbursement agreements and the other housing agency accounts payable system to determine whether the applicant has past due balances owed to the HA. No applicant will be admitted to the Housing program who owes money to any HA. A letter will be sent to the applicant advising that the balance must be paid in full. After the balance is paid in full, the applicant can re-apply to the program when the waiting list is opened.

3. Intake appointments for eligibility interviews will be scheduled by letter. The letter will direct the applicant to call for another appointment if the time scheduled is not convenient. If the applicant does not appear for the interview or telephone to request another interview, ten days after the second letter has been mailed, the applicant's name will be withdrawn from the waiting list. **[24 CFR 982.204 (c)]**

4. Applicants that are withdrawn from the waiting list for failing to respond to final notice from HA will not be reinstated unless the reason for their failure to respond is verified to be related to their disability. A response must be received from the applicant no later than six month from the date of the initial letter.

5. Applicants with disabilities may request that the interview be conducted in their home or at some other convenient location if the nature of their disability is such that they cannot reasonably be expected to come to the Housing Program office.

6. The appointment letter will inform the applicant of the necessary documents needed to determine eligibility, family composition, income, citizenship or eligible immigrant status, and deductions. Applicants must be prepared to authorize a release of information so third party written verification can be obtained.

C. Conducting the Eligibility Interview

When Applicant is Eligible: In general. The PHA may admit only eligible families to the program. To be eligible, an applicant must be a ‘‘family;’’ must be income-eligible, and must be a citizen or a noncitizen who has eligible immigration status [24 CFR 982.201(a)]

1. Applicants will complete an application form, providing all information required on the HUD-50058. The application will be signed by all adult members of the household.

2. Applicants will be required to provide third-party documentation of the family composition (e.g. birth certificates, evidence of naturalization, notarized affidavit in support of common law marriage, etc.). If elderly applicant is at least 62 years of age and does not have a birth certificate, DCHA will accept social security records, official school records or receipt of SSI old age benefits or SS benefits.

The Declaration of an Informal Marriage

If you and your spouse satisfy the following criteria: Then together you can sign a Declaration of Informal Marriage with the county clerk. Once signed and submitted, the declaration is valid proof of marriage and you are considered married for all legal purposes.

A. Both parties must mutually agree that they are married.

B. Both parties must tell other people that they are married.

C. The parties must live together in Texas as husband and wife.

HA considers the following to qualify as a "family": [24 CFR 982.201 (4) c, (Family composition)] [Notice 02/03/12; Notice PIH 2014-20]

a. Two or more persons (with or without children) regularly living together, related by blood, marriage, adoption, guardianship or operation of law, who will live together; or two or more persons who are not so related, but are regularly living together, can verify shared income or resources, who will live together. Including lesbian, gay, bisexual, or transgender (LGBT) individuals and couples.
b. The term family also includes elderly family, near elderly family, disabled family, displaced person, single person, the remaining member of a tenant family, a foster care arrangement, or a kinship care arrangement. Other persons, including members temporarily absent (e.g. a child temporarily placed in foster care or a student temporarily away at college), may be considered a part of the applicant family's household if they are living, or will live, regularly with the family.
c. For purposes of continued occupancy: the term 'family' also includes the remaining member of a resident family with the capacity to execute a lease.
d. Live-in aides may also be considered part of the applicant family's household. However, live-in aides have no rights of tenancy or continued occupancy. Live-in aide is determined by the HA to be essential to the care and well-being of an elderly person, a near-elderly person, or a person with disabilities; is not obligated for the support of the person(s) and would not be living in the unit except to provide care for the person(s). **[24 CFR 982.316]**.
e. Foster Care Arrangements include situations in which the family is caring for a foster adult, child, or children in their home who have been placed there by a public child placement agency, or a foster adult or adults placed in the home by a public adult placement agency.

3. Determination of Family Income Using Other Means Tested Public Assistance, i.e., "Safe Harbor" (24 CFR §§ 5.609(c)(3) and 891.105) Safe Harbor verification must be obtained by means of third- party verification and must state the family size, must be for the entire family (i.e., the family members listed in the documenting must match the family's composition in the assisted unit, except for household members) and must state the amount of the family's annual income.

Applicants will be required to provide third party verification of their income using third party verification forms which are to be mailed or faxed directly from the income source or applicants may utilize computerized award letters for income received from government sources, such as Temporary Assistance to Needy Families (TANF), court-ordered child support, Social Security, Supplemental Security Income, and Unemployment Compensation. Applicants will sign a release for third party verification of income from employment. The release will be sent to the employer by DCHA, and the information returned to DCHA by mail.

PHA's may, but are not required to:

- Accept third-party verification dated within 120 days of the date received by

the PHA (rather than 60 days of the reexam/PHA request date)

- Accept a statement dated within the appropriate benefit year for fixed income sources like Social Security

- Zero Income Reviews, HUD clarified that PHA's are not required to conduct periodic zero income reviews. HUD also clarified that PHA's may accept self-certification as the highest form of verification for zero income.

4. Applicants who wish to receive deductions for medical expenses, reasonable childcare, and/or disability assistance expenses, will be required to provide sources from whom the HA can obtain third-party verification of the expenses.

5. Dependents include persons with disabilities and full-time students other than family head or spouse. Full time students include those attending traditional educational institutions as well as those pursuing full-time vocational training.

D. Determining Eligibility [24 CFR 982.201]

(4) The applicable income limit for issuance of a voucher when a family is selected for the program is the highest income limit (for the family size) for areas in the PHA jurisdiction**. [24 CFR 982.201 (4)]**

To be income eligible, the applicant must be a family in any of the following categories: **[24 CFR 982.201 (b)]**

- Extremely low-income
- Very Low-Income
- Low Income

1. Generally, eligible applicants must verify that their incomes are at or below the Extremely Low-Income limit or the Very Low-Income limit, and that their family does not include an adult who has been involved in violent criminal activity and threatened the well-being of others, alcohol abuse, or drug-related criminal activity during the past five years. In addition, any applicant who is subject to a lifetime registration requirement under State sex offender registration program in any state or who has been convicted of manufacture or production of methamphetamines on the premises of federally assisted housing is ineligible for assistance [24 CFR 982.553]

2. As a part of the eligibility determination, HA shall run a criminal record check on all adult family members. When the applicant has lived in Dallas County for the past three years, the record check shall involve the Dallas Police Department. If any adult member of the applicant family has not lived in Dallas County for the previous three years, records to be checked may include the police department of the localities where the applicant lived, as well as the records of the National Crime Information Center. Applicants are required to sign releases for such criminal record checks.

3. Eligibility of Students

   If a student is enrolled at an institution of higher education, is under the age of 24, is not a veteran, is 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, no Section 8 assistance can be provided to the student. Unless the student is determined independent from his or her parents, the eligibility of a student seeking Section 8 assistance will be based on both the student and the parents being determined income eligible for assistance.

   Students with disabilities receiving Section 8 assistance as of November 30, 2005, are exempt from this student restriction *(see Exhibit X. Pg. 173 Eligibility of Independent Students for Assisted Housing)*.

4. Eligibility and income Tiers

   No more than 25% of the families admitted in any fiscal year may have incomes that exceed 30% of the median income for the area (Extremely Low Income). Generally, these families may have incomes between 31% and 50% of the area median (Very Low Income). Refer Exhibit C for description of Income and asset that will be factors in determining eligibility. Certain families may, at the time of admission, have incomes between 51% and 80% of the area median (Low Income) because they do not count against the 25%-75% income targeted requirement. These include:

   A. Families continuously assisted in Public Housing or Section 8;
   B. Families physically displaced by rental rehabilitation;
   C. Non-purchasing tenants of certain homeownership programs;
   D. Tenants displaced from certain Section 221 and 236 projects;
   E. Low-income families residing in certain HUD-owned projects.

5. Eligibility of 62 years of age and older

   A In accordance with 24 CFR 5.216, ex B program participants who have previously disclosed their SSN and HUD has determined the SSN to be valid can be verified by viewing the households summary report on the Identify Verification Report in the EIV System.

   B Program participants who have not previously disclosed a valid SSN will be exempt even if they relocate to a new assisted unit.

6. At least one member of an eligible family must have either citizenship or eligible immigration status. Applicants will be required to complete a certification of citizenship status for each member of the family. HA will require third party verification of the applicant's certification documentation (i.e., U.S. Passport, resident alien card, social security card, or other appropriate documentation. If 62 years of age or older, signed declaration of eligible immigration status and proof of age document), in accordance with Section 592 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA).

The HA will not require an applicant to establish and verify eligibility in relation to citizenship before providing financial assistance to an individual or family. However, HA must verify eligibility status no later than the date of the family's annual re-examination.

A prorated reduction in housing assistance will be made for all persons in the participant family who do not have either citizenship or eligible immigration status.

A family that consists of a single household member (including a pregnant individual) who does not have eligible immigration status is not eligible for housing assistance and cannot be housed.

7. If, within 30 days of the eligibility interview, the applicant has failed to submit the required documentation or to complete the required forms and certifications, the family will be determined to be ineligible. The applicant will be notified in writing, and will be given the opportunity to request an informal hearing.

8. Families determined eligible to receive assistance will receive a Housing Choice Voucher.

E. Grounds for Denial [24 CFR 982.552 and 24 CFR 553]

The HA will deny assistance to applicants who:

1. If any member of the family has been evicted from federally assisted housing in the last ~~five~~ **three** years; **[24 CFR 982.552 (4) (c) (ii)]**

   a DCHA may consider admitting the applicant if the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by DCHA or;

   b The circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned

   c DCHA may consider admitting the applicant if the household member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by DCHA or the household member who engaged in the drug-related criminal activity no longer lives in the household.

2. If any HA has ever terminated assistance under the program for any member of the family; **[24 CFR 982.552 (4) (c) (iii)]**

3. If any member of the family has committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from; (see also§ 982.553(a)(1)); **[24 CFR 982.552 (4) (c) (iv)]**

4. Currently owes rent or other amounts to any housing authority in connection with the public housing or housing programs; **[24 CFR 982.552 (4) (c) (v)]**

5. The family has not reimbursed any HA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease **[24 CFR 982.552 (4) (c) (vi)]**

6. If the family breaches an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. (The PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement.) **[24 CFR 982.552 (4) (c) (vii)]**

7. Have engaged in or threatened abusive or violent behavior (verbal or physical) towards any HA Housing staff or resident; **[24 CFR 982.552 (4) (c) (ix)]**

8. Denial of assistance for an applicant may include any or all of the following; denying listing on the PHA waiting list, denying or withdrawing a voucher, refusing to process or provide assistance under portability procedures. [**24 CFR 982.552(a)(2)].**

9. Any household member with the history of criminal activity occurring within the last five years involving any illegal drug use, other criminal activity, and alcohol abuse that would threaten other residents, see Sec. **[24 CFR 982.552(b)(1)]**

10. Any household member convicted of a felony in the last ~~5~~ **3** years may be denied assistance. Any Household member convicted with a felony will be subject to an informal review. The HA may request court order documents to verify dismissal or completion of Deferred Adjudication. According to PIH Notice 2015-19 the purpose of this Notice is to inform PHAs and owners of other federally-assisted housing that arrest records may not be the basis for denying admission, terminating assistance or evicting tenants, to remind PHAs and owners that HUD does not require their adoption of "One Strike" policies, and to remind them of their obligation to safeguard the due process rights of applicants and tenants. [PIH 2015-19, Exhibit T].

    a DCHA may consider admitting the applicant if the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by DCHA or;

    b The circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned

    c DCHA may consider admitting the applicant if the household member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by DCHA or the household member who engaged in the drug-related criminal activity no longer lives in the household.

11. A student under the age of 24 who is not a veteran, unmarried, does not have a dependent child.

12. Revocation of consent or refusal to sign the consent form prohibits DCHA from requesting and accessing income information and financial records, including pulling any EIV reports and using EIV data to verify income. Revocation of Consent Form (Form HUD-9886)[2] (24 CFR §§ 5.230(c)(5)(iii) and 24 CFR 5.232(c))

Mandatory Denial:

1. If any household member has ever been convicted of manufacture or production of methamphetamines on the premises of federally assisted housing; [24 CFR 982.553 (1) (c)]
2. Any household member who is subject to a lifetime registration requirement under a State sex offender registration program; [24 CFR 982.553 (2)]

Policy Guidance on College Student Admissions
[PIH Notice 2005-16, Exhibit U]

Purpose HUD has recently become aware that PHAs may be admitting ineligible college students to HUD's public and assisted housing programs. In order to be eligible for program assistance, an applicant must meet income eligibility requirements, as established by Section 3(a)(1) and 8(o)(4) of the U.S. Housing Act of 1937 and implementing regulations at 24 CFR 960.201 and 982.201.

Restrictions on assistance to students enrolled in an institution of higher education. No assistance shall be provided under section 8 of the 1937 Act to individual who:

a. Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 10002);
b. Is under 24 years of age;
c. Is not a veteran of the United States Military;
d. Is unmarried;
e. Does not have a dependent child;
f. Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the 1937 Act and was not receiving assistance under section 8of the 1937 Act as of November 30, 2005;and
g. Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

Special Attention of: Notice PIH 2015-21

Subject: Amendment to the Definition of Tuition

I. Purpose

This notice serves to amend the definition of tuition found in the Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance (71 FR 18146, appendix A) which is used in both Multifamily Housing and Public and Indian Housing (PIH) programs. The Supplementary Guidance states that "tuition shall have the meaning given this term by the institution of higher education in which the student is enrolled1." To promote consistency across HUD's programs and provide PHAs and O/As with a standard definition of tuition and fees, HUD is aligning with the Department of Education's definition of tuition and fees. With the issuance of this notice, tuition will now be defined in the same manner in which the Department of Education defines "tuition and fees." Section IV of this Notice provides details of the amended definition. See Exhibit V.

To ensure extenuating circumstances exist, each case is taken under consideration and reviewed on case by case basis by the Assistant Housing Director.

F. Informal Reviews [24 CFR 982.554]

A When an applicant for Section 8 assistance is determined ineligible for assistance, HA will notify the applicant in writing. The notice will state the reason for denial, and that the applicant may request an informal review, in writing, within 10 working days of the date of the notice.

B When an applicant requests an informal review, HA will schedule the review promptly and notify the applicant of the time and place that the review will be held. The review will be conducted in accordance with HA's procedure on Informal reviewing. The applicant may present his/her case in writing, and may provide additional information to support his/her claim. Within 10 days of the review, HA will notify the applicant in writing of its final decision, including a brief statement of the reasons for the final decision.

The PHA review procedures must comply with the following:

(1) The review may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of this person.
(2) The applicant must be given an opportunity to present written or oral objections to the PHA decision.
(3) The PHA must notify the applicant of the PHA final decision after the informal review, including a brief statement of the reasons for the final decision.

Section IV. Issuing Housing Choice Vouchers

A. Subsidy Standards [24 CFR 982.402]

Purpose [24 CFR 982.402(a)]

(1) The PHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions.

(2) For each family, the PHA determines the appropriate number of bedrooms under the PHA subsidy standards (family unit size).
(3) The family unit size number is entered on the voucher issued to the family. The PHA issues the family a voucher for the family unit size when a family is selected for participation in the program.

Voucher Program Unit Size Election [24CFR 982.402 (c)(3)]

Determining family unit size [24CFR 982.402(b)]
The following requirements apply when the PHA determines family unit size under the PHA subsidy standards:

(1) The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
(2) The subsidy standards must be consistent with space requirements under the housing quality standards (See § 982.401(d)).
(3) The subsidy standards must be applied consistently for all families of like size and composition.

Utility Allowance

Section 242 of the 2014 Appropriations Act limits the utility allowance payment for tenant-based vouchers to the family unit size for which the voucher is issued, irrespective of the size of the unit rented by the family, with an exemption for families with a person with disabilities.

Utility Allowances: the utility allowance used to calculate the gross rent is based on the lower of the utility allowance amount for the family unit size or the utility allowance for the actual unit size rented by the family. (Federal Register Vol. 79, No. 22/Wednesday, June 25, 2014).

Minimum and Maximum-Number-of-Persons-Per Unit Standard

Number of Bedrooms	Min Persons/Unit (Largest Unit Size)	Max Persons/Unit (Smallest Unit Size)
0BR	1	1
1BR	1	2
2BR	2	4
3BR	3	6
4BR	4	8

5BR	5	10

The following principles govern the size of voucher that a family will be issued. Generally, two people are expected to share each bedroom. With the exception that vouchers will be assigned so that:

a. It will not be necessary for persons of different generations or opposite sex, other than husband and wife, to occupy the same bedroom, although they may do so at the request of the head of household; (i.e. grandparents / parents; parents / children)

b. Exceptions to the largest permissible voucher may be made in case of reasonable accommodations for a person with disabilities;

c. Two children of the opposite sex over age five will not be required to share a bedroom, although they may do so at the request of the family;

d. An unborn child will not be counted as a person in determining voucher size. A single pregnant woman may be assigned to a one-bedroom unit. In determining unit size, HA will count a child who is temporarily away from the home because the child has been placed in foster care, kinship care, or is away at school;

e. A single head of household parent shall not be required to share a bedroom with his/her child over age five, although they may do so at the request of the family;

f. A live-in attendant may be assigned a bedroom. Single elderly or disabled residents with live-in attendants will be assigned a two bedroom unit, if the HA is provided a doctors statement stating there is a need for a live-in attendant. The document will be reviewed by HA 504 Coordinator for approval.

The Local Housing Code, or two persons per bedroom will be used as the standard for the smallest voucher a family may be assigned. The HA must make the case that such occupancy levels will not have the effect of discriminating on the basis of familial status.

Other than as a reasonable accommodation for someone with a disability, the largest unit size that a family may be offered would provide no more than one bedroom per family member, taking into account family size and composition.

Under the voucher program, the family may select a smaller unit, provided that the unit has at least one living/sleeping room for every two people. The family may also choose to select a larger unit, although they will be subsidized based on the cost of the smallest unit for which they qualify.

Payment Standards

The HA establishes payment standards by a number of bedrooms. The payment standards for the family must be the lower of:

(i) The payment standards for the family unit size; or
(ii) The payment standard for the unit size rented by the family.

B. Information When Family is Selected [982.301]

PHA Briefing of Family [982.301(a)]

(1) When the PHA selects a family to participate in a tenant-based program, the PHA must give the family an oral briefing. The briefing must include information on the following subjects:
   (i) A description of how the program works;
   (ii) Family and owner responsibilities; and
   (iii) Where the family may lease a unit, including renting a dwelling unit inside or outside the PHA jurisdiction.

(2) For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the briefing must include an explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction, or outside the PHA jurisdiction under portability procedures.

(3) If the family is currently living in a high poverty census tract in the PHA's jurisdiction, the briefing must also explain the advantages of moving to an area that does not have a high concentration of poor families.

(4) In briefing a family that includes any disabled person, the PHA must take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6.

(5) In briefing a welfare-to-work family, the PHA must include specification of any local obligations of a welfare-to-work family and an explanation that failure to meet these obligations is grounds for PHA denial of admission or termination of assistance.

Information Packet [982.301 (b)]

When a family is selected to participate in the program, the PHA must give the family a packet that includes information on the following subjects:

(1) Fact Sheet/How your rent is determined
(2) Computation Worksheet
(3) Current Maximum Subsidy Standards
(4) Current Utility Allowances (Apartments/ Town Home/ Condos/ and Single Family/ Duplex/ Manufacture
(5) Homes)
(6) Request for Tenancy Approval (RFTA Example)
(7) Request for Tenancy Approval (RFTA)
(8) Landlord Listing
(9) Expanding Housing Opportunities
(10) The advantages of moving to an area that does not have a high poverty concentration
(11) Maps/ Demographics

(12) Portability Process/ Portability Request /Local Housing Agencies (6 pages)
(13) Reasonable Accommodation/ Request
(14) Appointment Request Form
(15) Termination of Family Assistance,
(16) Informal Hearing Procedures
(17) Request for Housing Choice Voucher Extension
(18) Release of Family Information
(19) Tenancy Addendum
(20) Violence Against Women Reauthorization Act ("VAWA")
(21) Is Fraud Worth It (HUD-1141)
(22) Fair Housing is Your Right Pamphlet
(23) Are you a Victim of Housing Discrimination (Form HUD-903.1 (1/02)
(24) A Good Place to Live (Booklet)
(25) Protect your Family from Lead in your Home
(26) Renovate Right-Important Lead Hazard information
(27) Homeownership / Home Loan Program / Credit repair/ Financial Workshops
(28) Resource Referrals (within surrounding area)
(29) Employment Services (Back Table)
(30) School districts within surrounding areas (Back Table)

C. Issuing Housing Choice Vouchers [24 CFR 982.302]

(a) When a family is selected, or when a participant family wants to move to another unit, the PHA issues a voucher to the family. The family may search for a unit.
(b) If the family finds a unit, and the owner is willing to lease the unit under the program, the family may request PHA approval of the tenancy. The PHA has the discretion whether to permit the family to submit more than one request at a time.
(c) The family must submit to the PHA a request for approval of the tenancy and a copy of the lease, including the HUD-prescribed tenancy addendum. The request must be submitted during the term of the voucher.
(d) The PHA specifies the procedure for requesting approval of the tenancy. The family must submit the request for approval of the tenancy in the form and manner required by the PHA.

1. When all necessary verifications have been received, and HA has determined that the family is eligible to receive a voucher, a notice will be sent to the family advising them of the dates of the next participant briefing sessions. In order to receive a voucher, the applicant must attend one of these sessions. If at the conclusion of the session the applicant has not received his/her voucher and has not contacted HA to schedule an alternate time for the briefing, the application will be withdrawn.

2. For families headed by persons with disabilities, the participant briefing maybe conducted at the applicant's home, or at some other accessible location. Applicants requiring this accommodation must request it at the time they receive the briefing notice.

3. Before receiving a voucher, all applicants are required to attend a briefing session, during which the operation of the program and the responsibilities of the family and the owner will be explained. The briefing will include an explanation of where a family can live, and how portability works (see Portability Section V [J] Page 20). All families will receive Mobility Counseling explaining the advantages of moving to an area that does not have a high concentration of poor families.

4. All voucher holders will receive an Information Briefing Packet, which includes all information required by **[24 CFR 982.301 (b)].**

   When a family is selected to participate in the program, the PHA must give the family a packet that includes information on the following subjects:

   - The term of the voucher, initial, extension and suspension of the voucher [see 24 CFR 982.303(a)]
   - How does the PHA determines rent: The payment standards and total tenant payment. (see calculation worksheet)
   - Maximum subsidy for the rent.
   - Where the family may lease a unit under the portability process.(see portability package)
   - Tenancy Addendum (Form HUD-52641-A to be attached with the lease)
   - Request for Tenancy Approval [see 24 CFR 982.302]
   - A statement of the PHA policy on providing information about a family to a prospective owner.

   PHA Information About Tenant **[24 CFR 982.301 (b)]**
   (1) The PHA must give the owner:
   (i) The family's current and prior address (as shown in the PHA records); and
   (ii) The name and address (if known to the PHA) of the landlord at the family's current and prior address. **[24 CFR 982.307 (b)]**
   - How to select a unit: HUD booklet "A Good Place to Live."
   - Information on Federal, State and local equal opportunity laws, and the copy of the housing discrimination for complaint form. "Are you the victim of Housing Discrimination?' Fair Housing is your Right!" (Form HUD-903.1 (1/02)
   - A list of landlords or other parties known to the PHA who may be willing to lease a unit to the family. (see list of the landlords)
   - Notice that if the family includes a disabled person, the family may request a current listing of accessible units known to the PHA that may be available. (see landlord listing)

D. Term of the Housing Choice Voucher [24 CFR 982.303 and 24 CFR 982.54 (d)(2)]

1. Vouchers are issued for an initial term of ~~60~~ 120 days.
2. If at the end of ~~60~~ 120 days the voucher holder has not submitted a Request For Tenancy Approval (RFTA), the voucher will expire unless the family has requested and received approval for an extension. Extensions will be approved only for good cause, including, but not limited to, illness or hospitalization during the initial ~~60~~ 120 days, difficulty in locating units suitable for large families or persons with disabilities, or accommodating special needs of the family. Extensions are for 30 days only.
3. The HA practices the suspension of the term of the voucher upon receipt of the RFTA. RFTA's are accepted at any time during the initial ~~60~~ 120-day term. If after the initial or follow-up inspection the unit is approved, a HAP contract is executed on behalf of the family. If the unit is not approved, consideration will be given as to whether there is sufficient time remaining under the initial term for the family to locate another unit, or whether a 30-day extension is needed.

E. Assistance to Families Subjected to Illegal Discrimination [24 CFR 982.304]

1. Families who believe that they have been subjected to illegal discrimination during their search for housing are directed to report the occurrence to the HA. The HA, in conjunction with the local city or state Fair Housing representatives, will investigate the complaint and take whatever action is determined appropriate. The PHA must give the family information on how to fill out and file a housing discrimination complaint.
2. Families who have been determined subjects of illegal discrimination will be eligible to receive an extension to the maximum 120 days.

Section V. Leasing Units

A. Contract and Relationship

The lease agreement is an agreement between the owner/management company/client. Please refer to Page 3, Part B #2 of the HAP Contract.

B. Prospective Owners Requests for Information [24 CFR 982.301(7)]

1. The HA shall give each family a statement of the policy on providing information to prospective owners. PHA information about tenant. The PHA must give the owner: (i) The family's current and prior address (as shown in the PHA records); and (ii) The name and address (if known to the PHA) of the landlord at the family's current and prior address [24 CFR 982.307(b)]. The statement shall be included in the information packet that is given to a family selected to participate in the program.

2. The HA will inform owners of their responsibility for screening the voucher holders to determine their suitability for tenancy. Factors such as payment of rent and utility bills, care of a leased unit, criminal activity, and respect for the rights of others, may be considered [24 CFR 982.307(3)].

C. Request for Tenancy Approval [24 CFR 982.305]

The PHA specifies the procedure for requesting approval of the tenancy. The family must submit the request for approval of the tenancy in the form and manner required by the PHA.

Program Requirements [24 CFR 982.305 (a)]
The PHA may not give approval for the family of the assisted tenancy, or execute a HAP contract, until the PHA has determined that all the following meet program requirements:

(1) The unit is eligible;
(2) The unit has been inspected by the PHA and passes ~~**HQS**~~ **NSPIRE**;
(3) The lease includes the tenancy addendum;
(4) The rent to owner is reasonable; and
(5) At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed 40 percent of the family's monthly adjusted income.

Actions Before Lease Term [24 CFR 982.305 (b)].
(1) All of the following must always be completed before the beginning of the initial term of the lease for a unit:
  (i) The PHA has inspected the unit and has determined that the unit satisfies the ~~**HQS**~~ **NSPIRE**;
  (ii) The landlord and the tenant have executed the lease (including the HUD prescribed tenancy addendum, and the lead-based paint disclosure information as required in § 35.92(b) of this title); and
  (iii) The PHA has approved leasing of the unit in accordance with program requirements.
(2) (i) The PHA must inspect the unit, determine whether the unit satisfies the ~~**HQS**~~ **NSPIRE**, and notify the family and owner of the determination:

1. When the voucher holder finds a unit that is suitable, and the owner has agreed to lease the unit to the family, the family and the owner will complete the Request for Tenancy Approval and submit it to HA. The HA will determine whether the unit is within its jurisdiction, and if so, will schedule a ~~Housing Quality Standards~~ (~~**HQS**~~ **NSPIRE**) inspection of the unit. Under no circumstances will a HAP contract be initiated or signed until a unit passed inspection and a reasonable rent has been completed, entered, and submitted back to the case manager (*See Exhibit F & G*).

2. The HA may, at its administrative discretion, refuse to enter into a new Housing Assistance Payment (HAP) contract with an owner. **[24 CFR 982.306]**

   a. The owner refuses (or has a history of refusing) to evict families for drug related or violent criminal activity, or activity that threatens the health, safety, or right of peaceful enjoyment of premises by tenants, HA employees, owner's employees, or of residents by neighbors;

   b. The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act;

c. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

d. The owner has engaged in drug trafficking;

e. The owner has a history or practice of non-compliance with the UPCS for units leased under the tenant-based programs or with applicable housing standards for units leased with project based assistance or leased under any other federal housing program;

f. The owner has not paid State or local real estate taxes, fines or assessments;

g. The owner fails to report that the participant vacated the unit and continues to receive housing payments;

h. The owner fails to comply with HA's Landlord Certification.

3. When directed by HUD, the PHA must not approve an assisted tenancy if: [24 CFR 982.306]

   - If the HA has been informed by HUD or otherwise that the owner has been debarred, suspended, or subject to a limited denial of participation **[24 CFR Part 24]**;
   - If directed by HUD because 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; or
   - If directed by HUD because a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

   If the owner is disapproved, notification will be made, including reason, to the owner and the subsidy holder. The owner will be given an opportunity to rectify any deficiencies.

   If an owner cannot rectify any deficiencies, the voucher holder will be given a time extension to find a different unit.

D. Housing Types [24 CFR 982.601(a)]

1. The HA will not approve the use of shared housing, congregate housing, group homes, or single room occupancy units in its voucher program.

E. Voucher Tenancy: Payment Standards Amount and Schedule [24CFR 982.503(b)]

1. Generally, the HA will set its Housing Choice Voucher Payment Standard between 90% and 110% of the HUD-published fair market rent (FMR). Within those limits, HA may set higher or lower payment standards for certain areas within the jurisdiction as appropriate. DCHA must request HUD approval to establish a payment standard amount that is higher or lower than the basic range. The payment standard(s) will be based on information collected by HA regarding rents in each area, and the rent burdens incurred by program participants.

2. A family renting a unit at or below the payment standard pays, as gross rent, the highest of 30% of the monthly adjusted income, 10% of the monthly gross income, or the established minimum rent. A family renting a unit above the payment standard pays the highest of 30% of the monthly adjusted income, 10% of the monthly gross income, or the established minimum rent plus any rent above the payment standard.

   A family renting a pre-pay unit will be responsible for the greater of the 30% of the monthly adjusted income or the pre-pay amount. In case of a significant decline in family income, which means a decrease of at least 15% for the gross family income, the enhanced voucher minimum rent changes from actual dollar amount to a specific percentage (%) of income (30%). (Notice PIH 2000-9)

   Adjusted Income is defined as the Annual income minus any HUD allowable expenses and deductions.

HUD has five allowable deductions from annual income:

- Dependent Allowance: $480 each for family members (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.

- Elderly/Disabled Allowance: $400 per family for families whose head or spouse is 62 or over, or disabled.

- Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.

- Child Care Expenses: Deducted for the care of children under 13 when child care is necessary, to allow an adult member to work, attend school, or actively seek employment.

- Allowable Disability Assistance expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities, if needed, to enable the individual or an adult family member to work.

The initial rent for any unit leased under the voucher program must not require that a family pay more than 40% of adjusted income for rent. This maximum initial rent burden (MIRB) is applicable each time a participant moves to a new unit. The rent can exceed the MIRB if the family renews a lease for the same unit.

3. HA requires all participants to pay a minimum rent not less than $25.00 per month rent. If, based on the family's income and expenses, the TTP is calculated to be less than $25.00; HA will set the family's TTP at $25.00.

4. Financial Hardship exemption from minimum rent **[24 CFR 5.630].** The HA grants an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship. Financial hardship includes these situations:

   (i) When a family has lost eligibility for, or is awaiting an eligibility determination for a Federal, State, or Local assistance program, including a family that includes a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits, but for title IV of the personal responsibility and Work Opportunity Act of 1996;

   (ii) When a family would be evicted because it is unable to pay the minimum rent;

   (iii) When the income of the family has decreased because of changed circumstances, including loss of employment;

   (iv) When a death has occurred in the family; and

   (v) Other circumstances determined by the HA or HUD

      A. If a family requests a financial hardship exemption, DCHA must suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption until DCHA determines whether there is a qualifying financial hardship, and whether such hardship is temporary or long term.

      B. DCHA must promptly determine whether a qualifying hardship exists and whether it is temporary or long term.

      C. If DCHA determines that a qualifying financial hardship is temporary, the PHA must not impose the minimum rent during the 90-day period beginning the month following the date of the family's request for a hardship exemption. At the end of the 90-day suspension period, the responsible entity must reinstate the minimum rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by DCHA, for the amount of back rent owed by the family.

      (A) If DCHA determines there is no qualifying financial hardship exemption, DCHA must reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family must pay the back rent on terms and conditions established by DCHA.

      (B) If DCHA determines a qualifying financial hardship is long term, DCHA must exempt the family from the minimum rent requirements so long as such hardship continues. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

(C) The financial hardship exemption only applies to payment of the minimum rent (as determined pursuant to § 5.628(a)(4) and § 5.630), and not to the other elements used to calculate the total tenant payment (as determined pursuant to § 5.628(a)(1), (a)(2) and (a)(3)).

5. The HA will not approve for inclusion in the voucher program units whose rents exceed the rents for comparable unassisted units in the market area (rent reasonableness).

   To determine that the rent to owner is a reasonable rent, initially and during the term of the HAP contract, the HA will conduct an annual survey of private market rents in its jurisdiction. The survey will include typical contract and gross rents (contract rents plus HA's allowance for tenant-paid utilities, if any) for a representative sample of units of each housing type and size, in each of the areas within its jurisdiction that HA has determined constitutes a distinct market area.

   In establishing the reasonable rent for a unit proposed for inclusion in the program, HA will also consider the quality and age of the unit to be leased, along with the amenities, housing services, and maintenance provided by the owner.

   The process used to determine rent reasonableness will be documented in each tenant file.

F. NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE – NSPIRE 24 CFR5.709

The rule at 24 CFR5.709 explains that HUD has published a notice establishing the NSPIRE Standards and will subsequently update these Standards through future Federal Register notices at least once every three years with and opportunity for public comment.

~~**Housing Quality Standards (HQS** **NSPIRE**~~ **[24 CFR 982.401]**

~~Performance and acceptability requirements.~~ **[24 CFR 982.401(a)]**

~~(1) This section states the housing quality standards (**HQS** **NSPIRE**) for housing assisted in the programs.~~
~~(2)(i) The HQS consist of:~~
~~(A) Performance requirements; and~~
~~(B) Acceptability criteria or HUD approved variations in the acceptability criteria.~~
~~(ii) This section states performance and acceptability criteria for these key aspects of housing quality:~~
~~(A) Sanitary facilities;~~
~~(B) Food preparation and refuse disposal;~~
~~(C) Space and security;~~
~~(D) Thermal environment;~~
~~(E) Illumination and electricity;~~
~~(F) Structure and materials;~~
~~(G) Interior air quality;~~
~~(H) Water supply;~~
~~(I) Lead-based paint;~~

~~(J) Access;~~
~~(K) Site and neighborhood;~~
~~(L) Sanitary condition; and~~
~~(M) Smoke detectors.~~

NSPIRE STANDARDS:

1 Address and Signage Standard
2 Bathtub and Shower Standard
3 Cabinet and Storage Standard
4 Call-for-Aid System Standard
5 Carbon Monoxide Alarm Standard
6 Ceiling Standard
7 Chimney Standard
8 Clothes Dryer Exhaust Ventilation Standard
9 Cooking Appliance Standard
10 Door – Entry Standard
11 Door – Fire Labeled Standard
12 Door – General Standard
13 Drain Standard
14 Egress Standard
15 Electrical – Conductor, Outlet, and Switch
16 Electrical – GFCI or AFCI – Outlet or Breaker Standard
17 Electrical – Service Panel Standard
18 Elevator Standard
19 Exit Sign Standard
20 Fence and Gate Standard
21 Fire Escape Standard
22 Fire Extinguisher Standard
23 Flammable and Combustible Item Standard
24 Floor Standard
25 Food Preparation Area Standard
26 Foundation Standard
27 Garage Door Standard
28 Grab Bar Standard
29 Guardrail Standard
30 Handrail Standard
31 Heating, Ventilation, and Air Conditioning (HVAC) Standard
32 Infestation Standard
33 Leak – Gas or Oil
34 Leak – Sewage System
35 Leak – Water
36 Lighting – Auxiliary Standard
37 Lighting – Exterior Standard
38 Lighting – Interior Standard
39 Litter Standard

40 Minimum Electrical and Lighting
41 Mold-Like Substance Standard
42 Parking Lot Standard
43 Potential Lead-Based Paint Hazards – Visual Assessment Standard
44 Private Roads and Driveways Standard
45 Refrigerator Standard
46 Retaining Wall Standard
47 Roof Assembly Standard
48 Sharp Edges Standard
49 Sidewalk, Walkway, and Ramp Standard
50 Sink Standard
51 Site Drainage Standard
52 Smoke Alarm Standard
53 Sprinkler Assembly Standard
54 Steps and Stairs Standard
55 Structural System Standard
56 Toilet Standard
57 Trash Chute Standard
58 Trip Hazard Standard
59 Ventilation
60 Wall – Exterior Standard
61 Wall – Interior Standard
62 Water Heater Standard
63 Window Standard

- All program housing must meet the ~~**HQS**~~ **NSPIRE** performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy.

- DCHA will inspect each unit for compliance with ~~Housing Quality Standards **HQS**~~ **NSPIRE**, as soon as possible, but in no instance later than fifteen (15) business days after the unit ready date.
- All units proposed for inclusion in the Housing program must be in compliance with NSPIRE standards prior to the beginning of the Housing Assistance Payments Contract (HAP).
- If the proposed unit does not meet NSPIRE standards, DCHA will advise the owner of the repairs that must be made to bring the unit into compliance. If the owner is present at the initial inspection, he/she will be provided with a NSPIRE checklist that will specify the repairs that are needed to meet NSPIRE standards.
- If the unit is not ready for the initial inspection, it is at the discretion of the tenant to seek a new unit or request a re-inspection of that unit. If the tenant requests a re-inspection, DCHA will schedule an inspection after being notified by the owner that the unit is ready.

G. Maintenance: Owner and Family Responsibility; PHA Remedies. [24 CFR 982.404]

Owner Obligation [24 CFR 982.404(a)].

(1) The owner must maintain the unit in accordance with ~~**HQS**~~ **NSPIRE**.

(2) If the owner fails to maintain the dwelling unit in accordance with ~~**HQS**~~ **NSPIRE**, the
PHA must take prompt and vigorous action to enforce the owner obligations. PHA remedies for such breach of the ~~**HQS**~~ **NSPIRE** include termination, suspension or reduction of housing assistance payments and termination of the HAP contract.

(3) The PHA must not make any housing assistance payments for a dwelling unit that fails to meet the ~~**HQS**~~ **NSPIRE**, unless the owner corrects the defect within the period specified by the PHA and the PHA verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within no more than 30 calendar days (or any PHA-approved extension).

(4) The owner is not responsible for a breach of the ~~**HQS**~~ **NSPIRE** that is not caused by the owner, and for which the family is responsible (as provided in Sec. 982.404(b) and Sec. 982.551(c)). (However, the PHA may terminate assistance to a family because of ~~**HQS**~~ **NSPIRE** breach caused by the family.)

Family Obligation [24 CFR 982.404(b)].

(1) The family is responsible for a breach of the ~~**HQS**~~ **NSPIRE** that is caused by any of the following:

(i) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant.

(ii) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or

(iii) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(2) If an ~~**HQS**~~ **NSPIRE** breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any PHA-approved extension).

(3) If the family has caused a breach of the ~~**HQS**~~ **NSPIRE**, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family in accordance with Sec. 982.552.

The Remedies

1. If the owner makes a claim against the client for vacancy loss, tenant damages, unpaid rent or utilities, the landlord may seek legal action.
2. If a court judgment has been made against the client, the client may be terminated.

H. Enforcement of ~~HQS~~ NSPIRE [24 CFR 982.406]

Part 982 does not create any right of the family, or any party other than HUD or the PHA, to require enforcement of the **~~HQS~~ NSPIRE** requirements by HUD or the PHA, or to assert any claim against HUD or the PHA, for damages, injunction or other relief, for alleged failure to enforce the **~~HQS~~ NSPIRE**.

All life-threatening **~~HQS~~ NSPIRE** deficiencies will be corrected within twenty-four(24) hours of inspection and all other cited **~~HQS~~ NSPIRE** deficiencies will be corrected no more than 30 calendar days from the inspection unless Dallas County Housing Agency (DCHA) approves an extension of time for correction[982.404(a)(3)].

1. For **~~HQS~~ NSPIRE** deficiencies that are the owner's responsibility and are not corrected within the prescribed time frames, DCHA will abate housing assistance payments beginning no later than first of the month following expiration of DCHA violation notice. The violation notice will advise the owner that DCHA has abated payment for failure to make corrections.
2. For **~~HQS~~ NSPIRE** deficiencies that are the responsibility of the tenant and are not corrected within the prescribed time frames, DCHA will take prompt action to enforce family obligation following program requirements.
3. Inspectors will identify the party responsible for each **~~HQS~~ NSPIRE** violation listed on the inspection instrument so that proper notice can be sent to the owner and/or tenant for the appropriate items. This precludes abatement of owner rent when the violation(s) is the responsibility of the tenants. Housing assistance payments will not be abated for tenant deficiencies.
4. DCHA will monitor **~~HQS~~ NSPIRE** enforcement on a daily basis to ensure that re-inspections occur within the proper time frames.
5. DCHA will have a system to record the results of the quality control reviews of inspections. At a minimum, the system will provide:
    a. The address of the unit
    b. Date of original failed inspection
    c. Responsibility for the deficiency (tenant or owner)
    d. Date of re-inspection
    e. Results of the re-inspection
    f. Date owner notified of abatement

g. Actual date of abatement

h. Any extensions to the date

i. Initiation and status of termination of tenancy.

I. Rent to Owner: Reasonable Rent. (Refer to 24 CFR 982.507)

J. Disapproval of Owner/Landlord [24 CFR 982.306]

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/landlord for the following reasons:

1. The HA has been informed by HUD that the owner is debarred, suspended, or subject to a limited denial of participation under **24 CFR part 24**.
2. When directed by HUD, the HA will not approve an assisted tenancy if:
   a. 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.
   b. A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
3. The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act **[42 U.S.C. 1437f]**.
4. The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
5. The owner has engaged in any drug-related criminal activity or any violent criminal activity.
6. The owner has a history or practice of non-compliance with the ~~**HQS**~~ **NSPIRE** 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.
7. The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program, for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
   a. Threatens the right to peaceful enjoyment of the premises by other residents;
   b. Threatens the health or safety of other residents, or employees of the HA, or of owner employees, or other persons engaged in management of the housing;

c. Threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises; or

d. Is drug-related criminal activity or violent criminal activity.

8. The owner has a history or practice of renting units that fail to meet State or local housing codes.

9. The owner has not paid State or local real estate taxes, fines or assessments.

10. The HA will 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.

K. Owner Responsibilities [24 CFR 982.452]

The owner is responsible for performing all of the owner's obligations under the HAP contract and the lease [24 CFR 982.452(a)].

The owner is responsible for [24 CFR 982.452(b)]:

(1) Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit. The fact that an applicant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of tenancy if the applicant otherwise qualifies for tenancy.
(2) Maintaining the unit in accordance with ~~**HQS**~~ **NSPIRE**, including performance of ordinary and extraordinary maintenance. For provisions on family maintenance responsibilities, see § 982.404(a)(4).
(3) Complying with equal opportunity requirements.
(4) Preparing and furnishing to the PHA information required under the HAP contract.
(5) Collecting from the family:
  (i) Any security deposit.
  (ii) The tenant contribution (the part of rent to owner not covered by the housing assistance payment).
  (iii) Any charges for unit damage by the family.
(6) Enforcing tenant obligations under the lease.
(7) Paying for utilities and services (unless paid by the family under the lease).

For provisions on modifications to a dwelling unit occupied or to be occupied by a disabled person, see 24 CFR 100.203.Any of the following actions by the owner (including a principal or other interested party) is a breach of the HAP contract by the owner and may be terminated for any of the following actions [24 CFR 982.452(c)]:

L. Owner Breach of Contract [24 CFR 982.453]

Any of the following actions by the owner (including a principal or other interested party) is a breach of the HAP contract by the owner [24 CFR 982.453(a)]:

1. If the owner consistently violates any obligation under the HAP contract for the dwelling unit including the owner's obligation to maintain the unit in accordance with the ~~**HQS**~~ **NSPIRE**.
2. If the owner has violated any obligation under any other HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
3. If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
4. If the owner has engaged in drug-related criminal activity.
5. If the owner has committed any violent criminal activity.

Dallas County Housing Agency rights and remedies against the owner under the HAP contract include recovery of overpayment and termination of the HAP contract.

M. Portability [24 CFR 982.353]

1. Where family can lease a unit with tenant-based assistance [24 CFR 982.353]

   a) Assistance in the initial PHA jurisdiction. The family may receive tenant-based assistance to lease a unit located anywhere in the jurisdiction (as determined by State and local law) of the initial PHA. HUD may nevertheless restrict the family's right to lease such a unit anywhere in such jurisdiction if HUD determines that limitations on a family's opportunity to select among available units in that jurisdiction are appropriate to achieve desegregation goals in accordance with obligations generated by a court order or consent decree.
   b) Portability: Assistance outside the initial PHA jurisdiction. Subject to paragraph (c) of this section, and to 982.552 and 982.553, a voucher-holder or participant family has the right to receive tenant-based voucher assistance in accordance with requirements of this part to lease a unit outside the initial PHA jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program under this part. The initial PHA must not provide such portable assistance for a participant if the family has moved out of its assisted unit in violation of the lease.
   c) Nonresident applicants. (1) This paragraph (c) applies if neither the household head nor spouse of an assisted family already had a "domicile" (legal residence) in the jurisdiction of the initial PHA at the time when the family first submitted an application for participation in the program to the initial PHA.

The following apply during the 12 month period from the time when a family described in paragraph (c) (1) of this section is admitted to the program[24 CFR 982.353(c) (2)].:

(i) The family may lease a unit anywhere in the Jurisdiction of the initial PHA;
(ii) The family does not have any right to portability;

(iii) The initial PHA may choose to allow portability during this period.

If both the initial PHA and a receiving PHA agree, the family may lease a unit outside the PHA jurisdiction under portability procedures [24 CFR 982.353(c) (3)].

2. DCHA may only deny a family's request to move if it has grounds to do so under the program regulations which are as follows *(See PIH 2011-3, Page 12):*

   a) If the household head or spouse of an assisted family did not have a "domicile" (legal residence) in the jurisdiction of DCHA program at the time when the family first submitted an application for participation in the DCHA program (see 24 CFR 982.353 (c). Non-resident applicant)
   b) The family's action or failure to act as described in 24 CFR 982.552 or 982.553;
   c) The family is an applicant and is not income eligible in the area in which they wish to initially lease a unit as described in 24 CFR 982.353(d)(1);
   d) The requested move does not comply with DCHA policies on the timing and frequency of moves in accordance with 24 CFR 982.314(c)(2);
   e) DCHA does not have sufficient funding for continued assistance to support the move in accordance with 24 CFR 982.314(e)(1).
   f) DCHA will deny a family's request to move if the family has moved out of its assisted unit in violation of the lease. However, as noted in HUD Notice PIH 2007-5, the Violence Against Women and Justice Department Reauthorization Act 2005 (VAWA2005) amended section 8(r) of the U.S. Housing Act to provide an exception to the prohibition against a family moving under the portability provisions in violation. VAWA 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 violence (see page 3 of the Administrative Plan Section I-C).

3. The family will not be allowed to port to another HA within the same jurisdiction, with exception regarding conflict of interest with DCHA. If the receiving HA cannot or will not absorb the porting family, the receiving HA must bill the initial HA for the HAP payment and the approved percentage of the administrative fee.

4. When a family wishes to move into the jurisdiction of HA with a voucher issued by
5. another housing authority, HA will absorb the participant into the program if there is sufficient budget authority available. If the budget authority is insufficient, HA will administer the unit for the originating housing authority until budget authority is available, at which time the participant will be absorbed into the HA's program[24 CFR 982.355 (d).

Section VI. Annual Functions

A. Enterprise Income Verification (EIV) Usage (24 CFR § 5.233)

1. The regulation clarifies that DCHA must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, DCHA is no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

2. DCHA has a policy to consider *earned* income increases in calculating whether the 10% threshold has been met for an interim reexamination are required to review the EIV New Hires report at least quarterly, for the remainder of the reexamination period after the interim reexamination to decrease rent occurs.

B. Family income and composition: Regular and Interim Reexaminations: [24 CFR 982.516]

1. New Admissions and Interim Reexaminations

Regulations: 24 CFR §§ 5.609(c)(1); 882.515; 891.410(c) and (g)(2); 891.610(c) and (g)(2); 960.257; and 982.516

Summary: When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, DCHA must use anticipated income (current income) (i.e., the family's estimated income for the upcoming 12-month period). This requirement is consistent with the pre-HOTMA process for conducting income examinations at admission and for interim reexaminations.

2. Annual Reexaminations

Regulations: 24 CFR §§ 5.609(c)(2); 882.808; 891.410(g)(1); and 891.610(g)(1) 960.257; and 982.516
Summary: The final rule revises the standards for income calculation during annual reexamination.

During annual reexaminations, except where DCHA uses a streamlined income determination under 24 CFR §§ 5.657(d), 960.257(c), or 982.516(b) (Streamlined Income Determination)), DCHA must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with DCHA policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), must be considered. Income from assets is always anticipated, irrespective of the income examination type.

A family may request an interim determination of family income or composition because of any changes since the last determination. DCHA must conduct an interim reexamination within a reasonable period of time after the family request or

when DCHA becomes aware of a change in the family's adjusted income that must be processed in accordance with the final rule. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but DCHA generally should conduct the interim reexamination not longer than 30 days after DCHA becomes aware of changes in income.

The following subsection focuses on HOTMA's revisions to income reexamination requirements. The final rule changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When DCHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

For example, if the family is reporting a decrease in annual adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed. DCHA maintains documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in an interim reexamination. DCHA reviews the applicable regulations to ensure that any program-specific reexamination requirements are addressed.

De Minimis Errors (HOTMA) Regulations: 24 CFR 5.609 (c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f);882.808(i)(5); 891.105; and 891.655 Summary: PHAs/MFH Owners will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a PHA/MFH Owner's determination of a family's income deviates from the correct income determination by no more than $30 per month in monthly adjusted income (or $360 in annual adjusted income.

C. Re-certification and Interim of Family Eligibility

1. DCHA has the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income (Determination of Income Using Other Means Tested Public Assistance (i.e., "Safe Harbor")) of this notice for an example of how to calculate annual income using the safe harbor method.

2. The HA will conduct a full re-exam every 3 years for all families with fixed sources of income. [Federal Register/Vol. 81, No.45 March 8, 2016 pg. 12355, *Streamlined annual reexamination for fixed income(5)].*

3. Re-certification for families will be conducted annually, ninety (90) days prior to the anniversary date of the HAP contract. Re-certification for families with fixed income will be conducted every (3) years, ninety (90) days prior to the anniversary date of the HAP contract. During recertification, HA shall run a criminal background check on all adult family members. This interview will advise HA of any changes in the family's size or circumstances, and documentation is resubmitted to HA regarding

the family's income and allowable deductions. Any change in the family's payment that results from this reexamination will become effective on the anniversary date of the HAP contract.

3. Interim Reexamination – 982.516(c)(1)

A. A family may request an interim determination of family income or composition because of any changes since the last determination. DCHA must conduct an interim reexamination within a reasonable period of time after the family request or when DCHA becomes aware of a change in the family's adjusted income that must be processed in accordance with the final rule. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but DCHA should conduct the interim reexamination not longer than 30 days after DCHA becomes aware of changes in income.

B. The following subsection focuses on HOTMA's revisions to income reexamination requirements. The final rule changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When DCHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

C. For example, if the family is reporting a decrease in annual adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed. DCHA maintains documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in an interim reexamination. DCHA will review the applicable regulations to ensure that any program-specific reexamination requirements are addressed.

1. Families whose income decreases may request an interim re-certification any time during the year. Once verified by HA, the change in the family's payment resulting from the decrease in income will be effective the first of the following month when the changes are reported by the 15th of the previous month. Changes reported after the 15th will not be effective for the following month. An interim re-examination shall also re-occur when a change in family composition occurs. A change in family must be reported as soon as it becomes effective.

2. A family's rent may not be decreased as a result of reduction in the household's income for prior month(s) outstanding balance if the family fails to report in a timely manner and/or fails to appear for their first and second interim appointment.

3. A family that has an increase in their household's income may be terminated if they fail to appear for their first and second interim appointment. The family will be held responsible for any overpayment made by DCHA to the landlord due to client's failure to keep their appointments.

4. A family's rent will not be decreased as a result of a reduction in welfare benefits based on welfare fraud by a member of the family, nor as a result of the family's failure to comply with the welfare program requirements for work activities or participation in an economic self-sufficiency program, if verified by the welfare agency. If a reduction in welfare income results from the expiration of a lifetime limit on benefits or a loss of benefits because of a lengthy time limit on welfare benefits despite compliance, HA will reflect the reduced income in determining the family's annual income.

5. If an annual or interim re-examination result in zero HAP, the family may continue as a program participant for six months from the date of the re-examination or interim effective date. During this period, the HAP contract between the HA and the owner will remain in effect. If the family's circumstances change during the six month period and the family needs continuous assistance, the HA will conduct an interim re-examination to reinstate the family. At the end of six months, if the subsidy has not been restored, the HAP contract will terminate.

    a. If the family chooses to relocate during his or her re-examination and finds a new unit where the family's adjusted annual income exceed the gross rent or the payment standard, a new HAP Contract will not be executed. However, the family will be allowed to choose from one of the following options:

- Remain in the current unit if still eligible for housing assistance.
- Remain in the current unit without housing assistance if self-sufficient for a period of six months and if the landlord agrees.
- Locate another unit if the voucher has not expired.
- Terminate housing assistance.

D. Decreases in Adjusted Income – HOTMA Regulations

Regulations: 24 CFR §§ 5.657(c)(2); 882.515(b)(2); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(2); and 982.516(c)(2)

- DCHA may decline to conduct an interim reexamination of family income if DCHA estimates that the family's annual adjusted income will decrease by an amount that is less than 10 percent of the family's annual adjusted income, or such lower threshold established by DCHA.

- DCHA will apply a 0-percent threshold to process an interim reexamination when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member.

- If there is no change/decrease in adjusted income as a result of the decrease in family size, then a non-interim transaction is processed instead of an interim reexamination.

- This 0-percent threshold for interim reexamination applies only to decreases in family size that result in a **decrease** in adjusted income.

- If the net effect of the changes in annual adjusted income due to a decrease in

family size results in an **increase** in annual adjusted income, then DCHA will process the removal of the household member(s) as a non-interim reexamination transaction **without** making changes to the family's annual adjusted income.

Increases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(3); 882.515(b)(3); 960.257(b)(3); and 982.516(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2)

- DCHA will conduct an Interim Reexamination on increase or decrease by 10 percent of adjusted annual income
- DCHA may choose not to conduct an interim reexamination if a family reports an increase in income within three months of their next annual reexamination effective date.
- DCHA will not conduct interim reexaminations for income increases reported by families within the last three months of a family's reexamination period.
- DCHA will count increases in earned income when estimating or calculating whether the family's adjusted income has increased when the family previously received an interim reduction during the same reexamination cycle and whether they will conduct interim reexaminations when families previously underwent interim reexaminations for decreases in income (both earned and unearned income).
- DCHA Discretion: None.

E. HA Initial and Periodic Unit Inspection/Enforcement [24 CFR 982.405 and 24 CFR 982.406]

a. The HA must inspect the unit leased to a family prior to the initial term of the lease, at least annually during assisted occupancy, and at other times as needed, to determine if the unit meets the ~~**HQS**~~ **NSPIRE**. (See 982.305(b)(2) concerning timing of initial inspection by the HA)
b. The HA must conduct supervisory quality control ~~**HQS**~~ **NSPIRE** inspections.
c. In scheduling inspections, the HA must consider complaints and any other information brought to the attention of the HA.

d. The HA must notify the owner of defects shown by the inspection.
e. The HA may not charge the family or owner for initial inspection or re-inspection of the unit.

Annual Inspection of Units [24 CFR 982.405(a)]

1. At least once a year, ninety (90) days prior to the anniversary date of the HAP contract, HA will conduct an inspection of each assisted unit. If HA determines that the unit is not in compliance with inspection standards, a notice will be sent to the owner

advising him/her of the repairs needed. Thirty (30) days will generally be allowed for the owner to make the repairs, except for repairs needed to correct a condition determined by HA to be life-threatening, which must be made within 24 hours. HA will re-inspect the unit after the time allowed or at such earlier time as the owner notifies HA that the repairs have been made. If the repairs have not been made after 30 days, the HAP payment will be abated until the repairs are made or until the anniversary date of the contract. If repairs are not made by the anniversary date of the HAP contract, the HAP contract will be terminated and the family advised to look for another unit.

Biennial Inspections: Dallas County Housing Agency may now elect to conduct housing quality standards (~~**HQS**~~ **NSPIRE**) inspections biennially rather than annually for assisted units.

2. No retroactive payment will be made for the period after the first 30 days during which the unit was not in compliance with ~~**HQS**~~ **NSPIRE**.

3. HA will bar owners who have three units abated or terminated for non-compliance with ~~**HQS**~~ **NSPIRE** from future participation in the Housing program.

4. If the unit fails ~~**HQS**~~ **NSPIRE** for reasons attributable to the family's care or use of the unit, the family will receive written notification of the actions to be taken and a copy of the notice will be sent to the owner. Such failure may occur when the family fails to pay for utilities that are to be paid by the family, fails to provide or to maintain in working order any appliances that are provided by the family, or when a member or guest of the family causes damages to the unit beyond normal wear and tear. The family will be given 30 days to correct the defect or 24 hours if the resulting condition is determined by HA to be life threatening. If the defect is not corrected by the family during the time allowed, the HAP contract and the family's participation in the program will be terminated.

5. The family or the owner may request an inspection at any time during the year if a deficiency exists and if efforts to have the deficiency corrected by the responsible party—owner or family—have failed. The inspection and HA's follow-up will be handled as described in B 2 and B 4, above.

9. Regular Tenancy: Annual Adjustment of Rent to Owner

Rent Increases [24 CFR 982.519 (b)]

The owner must request from DCHA a rent increase 90 days before the anniversary date of the contract. This request must be in writing. HA's approval of the increase will be subject to its determination that the resulting rent will not exceed rents for comparable unassisted units in the market area (rent reasonableness). At no time during the assisted tenancy will the rent to the owner exceed the reasonable rent as determined by HA.

10. Rent Reasonableness [24 CFR 982.507(a)]

Rent to Owner: Reasonable Rent
PHA determination [24 CFR 982.507(a)]

(1) The PHA may not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent.

(2) The PHA must re-determine the reasonable rent:
  (i) Before any increase in the rent to owner;
  (ii) If there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect 1 year before the contract anniversary; or
  (iii) If directed by HUD.

(3) The PHA may also re-determine the reasonable rent at any other time.
(4) At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by the PHA.

Comparability [24 CFR 982.507(b)]
The PHA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units.

(1) The location, quality, size, unit type, and age of the contract unit; and
(2) Any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Owner certification of rents charged for other units [24 CFR 982.507 (c)].
By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the PHA information requested by the PHA on rents charged by the owner for other units in the premises or elsewhere.

1. Procedures for Determining and Certifying Rent Reasonableness

   The Housing Inspector will disapprove a lease for rent that is not reasonable, based on the rent charged for comparable rental units in the immediate area. The Housing Supervisor will exercise this authority for Voucher holders, where the rent requested by the Landlord plus utility allowance for the unit is not reasonable or exceeds the Fair Market Rent and for Voucher holders, where families are not able to negotiate reasonable rental rate with the landlord. A rent reasonableness study is performed for each unit to ensure requests are comparable to unassisted units in the same

area. DCHA will examine the following for the purpose for determining rent reasonableness:

a. rents in the immediate area or neighborhood or in similar nearby neighborhoods if comparable is unavailable; and

b. rental information obtained from classified advertisement in the newspapers, the Dallas Apartment Association, adjacent apartment complexes, and from other sources.

2. DCHA must re-determine the reasonable rent:

(1) Before any increase in the rent to owner;
(2) If there is a five percent (5%) decrease in the published FMR in effect 60 days before the contract anniversary date as compared with the FMR in effect one year before the contract anniversary date.
(3) As directed by HUD.
(4) DCHA may re-determine the reasonable rent at any other time.
(5) At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by DCHA.

11. Maximum Family Share at Initial Occupancy [24 CFR 982.508]

At the time the PHA approves a tenancy for initial occupancy of a dwelling unit by a family with tenant-based assistance under the program, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share must not exceed 40 percent of the family's adjusted monthly income. The determination of adjusted monthly income must be based on verification information received by the PHA no earlier than 60 days before the PHA issues a voucher to the family.

Section VII. Changes in Family Size, Family Separations, Absences, and Moves

A. Changes in Family Size [24 CFR 982.505 (5)]

1. Household size will not increase unless the composition change is due to marriage, birth, adoption or a family emergency that has been documented by the HA (e.g., court order, medical reasons, death certificate of parents, proof of legal guardianship, legal services or other agency involvement such as CPS, etc.). Supporting documents requested may include notarized statements, food stamps, and TANF award letters, school verification to verify guardianship and address. Before determining the appropriate bedroom size for the foster children, the foster from child services will be required and evaluated before making a determination.

2. If the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard amount for the family beginning at the family's first regular reexamination following the change in family unit size.

3. If the family size increases while the family is receiving assistance under the voucher program, and the family becomes eligible for a larger unit, at the anniversary date of the current HAP Contract, HA will issue the larger voucher at the family's request.

4. If the increase in family size results in the assisted unit failing ~~**HQS**~~ **NSPIRE** space standards, HA will issue the larger certificate or voucher at the family's request, but in any case no later than the anniversary date of the current HAP contract, and the family will be required to find a larger unit. The HAP contract for an overcrowded unit will be terminated as of the anniversary date of the contract.
5. If the family size decreases while the family is receiving assistance under the voucher program, and the family becomes ineligible for the unit size it currently occupies, HA will issue the smaller voucher. The participant can remain in the unit as long as the Total Tenant Payment does not exceed 40% of the monthly adjusted income. However, if the Total Tenant Payment does exceed 40% of the adjusted income, the voucher will be downgraded and the family will be required to relocate at the annual re-examination or voucher will be terminated.

6. If the HA proposes to terminate a HAP contract under the provisions of Section VII A. (2) or (3), it will notify the family of allowable exceptions to the HA's occupancy standard (i.e., age, health, or handicap of an elderly or disabled family member), as well as the process by which the family can request an exception.

HA will not terminate a HAP contract under the provisions of Section VII A. (3) above if it has determined that there is no acceptable unit available for rent by the family in the jurisdiction of HA.

B. Addition of New Household Member [24 CFR 5.216]

1. A participant requesting to add a new household member that is six years of age or under and has an assigned SSN must disclose the assigned SSN and provide PHA with documentation at the time of request. If family is unable to provide documentation, the PHA must not add the new household member until such documentation has been provided.

2. A participant requesting to add a new household member that is six years of age or under and does not have an assigned SSN will be given 90 calendar days from the effective date of the HAP Contract [Federal Register/Vol. 81, No.45 March 8, 2016 P. 12355 *Verification of Social Security Number (1)]* to provide PHA with documentation of the assigned SSN. The child is to be included as part of the assisted household during this time period.

   If documentation is not received within 90 calendar days, the PHA will grant the family an additional 90 days if the PHA determines that non-compliance was due to unforeseen circumstances (i.e. natural disaster, fire, death in family, etc.). If the family has not complied upon expiration of the allotted time period, the PHA must

terminate the family's housing assistance.

C. Family Break-Up [24 CFR 982.315(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. **[24 CFR 982.315(a)(1)]**
If the family break-up results from an occurrence of domestic violence, dating violence, or stalking as provided in 24 CFR part 5, subpart L, the PHA must ensure that the victim retains assistance. **[24 CFR 982.315(a)(2)]**

The factors to be considered in making this decision under the PHA policy may include **[24 CFR 982.315(b)]**:

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

(2) The interest of minor children or of ill, elderly, or disabled family members.
(3) Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, or stalking.

(4) Whether any of the family members are receiving protection as victims of domestic violence, dating violence, or stalking, as provided in 24 CFR part 5, subpart L, and whether the abuser is still in the household.

(5) Other factors specified by the PHA.

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. **[24 CFR 982.315(c)]**:

If a family separates while it is receiving Housing assistance, HA will determine who retains the assistance as follows:

1. First consideration will be given to a family member forced to leave the household as a result of actual or threatened violence by a spouse or other family member;

2. Second consideration will be given to an adult family member with custody of minor children;

3. Third consideration will be given to an adult family member with custody of ill, elderly, or disabled family members; and

4. If none of the above applies, the adult member initially designated as head of household will retain the Section 8 assistance.

D. Absences from Unit [24 CFR 982.312]

1. An assisted family that finds it necessary to be absent from the unit for a more than 30 consecutive days is required to notify the owner and HA of their absence, and the date by which they expect to return. During the family's absence, if the unit will be occupied by a caretaker not considered a part of the household, the tenant must secure the owner's permission for the arrangement, and notify HA. If HA finds the assisted unit unoccupied, or occupied by someone other than the designated head of household or other adult member of the family, it will assume that the family has vacated the unit and will terminate the HAP contract.

2. Under no circumstances may the family be absent from the assisted unit for more than 180 consecutive days. If the family's absence exceeds 180 days, HA will terminate the HAP contract.

3. If the family has given the notice required in C 1 above, the family will be eligible to receive a new voucher within 180 days of the termination of the HAP contract, if assistance is available under the voucher program. For purposes of determining eligibility, these families will be considered continuously assisted under the 1937 Act, and the very-low income limitation will not apply.

4. If the required notice has not been given, or if more than 180 days have elapsed since the termination of the HAP contract, the family will not be eligible to resume assistance and must reapply when applications are being accepted.

E. Move with Continued Tenant-Based Assistance [24 CFR 982.314]

Applicability
This section states when a participant family may move to a new unit with continued tenant-based assistance **[24 CFR 982.314(a)]**:

When family may move [24 CFR 982.314(b)]
A family may move to a new unit if:

(1) The assisted lease for the old unit has terminated. This includes a termination because:

(i) The PHA has terminated the HAP Contract for the owner's breach; or

(ii) The lease has terminated by mutual agreement of the owner and the tenant.

(2) The owner has given the tenant a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant.
(3) The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner, for owner breach).

1. An assisted family in good standing is allowed to move to a new unit only at the anniversary date. An assisted family may move at any time with continued assistance if the HA has terminated the HAP contract due to the owner's breach.

2. Amounts paid for vacancy loss, tenant damages, and/or unpaid rent under an old form of the HAP contract (Certificate program) must be repaid by the family prior to HA's issuance of a new voucher.

3. Assistance will be terminated and the family will not be able to move to a new unit with continued assistance if: the owner has evicted the tenant for serious or repeated violation of the lease for criminal activity in or around the assisted unit; or if the HAP has been terminated because of the tenant's failure to meet his/her family obligations under the Housing program.

4. After the family has been terminated, HA is required to retain the closed file for the period of three years. **[24 CFR 85.42]**

Section VIII. Evictions and Owner Obligations

A. Owner Termination of Tenancy [24 CFR 982.310]

Grounds. During the term of the lease, the owner may not terminate the tenancy except on the following grounds [24 CFR 982.310(a)]:

(1) Serious violation (including but not limited to failure to pay rent or other amounts due under the lease) or repeated violation of the terms and conditions of the lease;

(2) Violation of federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or

(3) Other good cause.

1. An owner may evict a Housing Program tenant at any time for: serious or repeated violations of the lease; violation of local, State, or federal laws applicable to the tenant's occupancy of the unit; violent criminal behavior by the tenant, a household member, or guest that threatens other residents or persons residing near the unit; or drug-related criminal activity.

2. After the first year, an owner may give notice of lease termination to a Housing Program tenant for other good cause, including: unwillingness by the family to accept a new lease or revision to the lease; the owner's desire to use the unit

for personal or family use, or for a purpose other than as a residential unit; or a business or economic reason for termination of the tenancy.

3. The owner must give the tenant a written notice of intention to terminate the lease, and the grounds for the termination, and must give a copy to the HA. If the lease is being terminated for business or economic reasons, the owner is required to give the tenant 90 days' notice.

4. A Housing Program tenant who is evicted for: serious or repeated violations of the lease; violation of local, State, or federal laws applicable to the tenant's occupancy of the unit; violent criminal behavior by the tenant, a household member, or guest that threatens other residents or persons residing near the unit; or drug-related criminal activity, will have his/her assistance terminated and will not be eligible to move to a new unit with Section 8 assistance.

Section IX. Family Obligations, Termination of Assistance, and Informal Hearings [24 CFR 982.551, 24 CFR 552, and 24 CFR 553]

A. Revocation of Consent Form (Form HUD-9886)[2] (24 CFR §§ 5.230(c)(5)(iii) and 24 CFR 5.232(c))

Revocation of consent or refusal to sign the consent form prohibits DCHA from requesting and accessing income information and financial records, including pulling any EIV reports and using EIV data to verify income.

The executed consent form will remain effective until the family is denied assistance, the assistance is terminated, or the family provides written notification to DCHA to revoke consent.

B. Obligations of participant (Family) [24 CFR 982.551]

Purpose. This section states the obligations of a participant family under the program.

Supplying required information

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

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

(3) The family must disclose and verify social security numbers (as provided by part 5, subpart B, of this title) and must sign and submit consent forms for obtaining

information in accordance with part 5, subpart B, of this title.

(4) Any information supplied by the family must be true and complete.

The following information required by PHA:

- Birth Certificate, Social Security card, Photo Identification (ID, evidence of citizenship or eligible immigration status.
- The family must submit required documentation for re-certifications, interim, and attend all schedule appointments.
- The family must disclose and verify Social Security number (SSN), and must sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family must report any changes in household income and/or family composition in writing within ten (10) days of the occurrence.
- If the family currently owes rent or other amounts to any housing authority in connection with the public housing or housing program, the family must report any prior housing assistance and debt owed to previous housing agencies.

~~HQS~~ NSPIRE breach caused by family. The family is responsible for an **~~HQS~~ NSPIRE** breach caused by the family as described in Sec. 982.404(b).(p 613)

- The family fails to pay for any utilities not paid by the owner.
- The family fails to provide and maintain any appliances not supplied by the owner.
- Any family member or guest causes damages to the unit or premises beyond normal wear and tear.
- The family must maintain good housekeeping

Allowing PHA inspection. The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice.

- The family must allow the HA to inspect the unit at reasonable times and after reasonable notice.

Violation of lease. The family may not commit any serious or repeated violation of the lease.

- The family may not commit any serious or repeated violation of the lease.

Family notice of move or lease termination. 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. See Sec. 982.314(d).

- The family must notify the HA and the owner before the family moves out of the unit, or terminates the lease on notice to the owner. *See §982.314(d).*

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

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

Use and occupancy of unit.--(1) The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit. No other person [i.e., nobody but members of the assisted family] may reside in the unit (except for a foster child or live-in aide as provided in paragraph (h)(4) of this section).

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

- If the PHA has given approval, a foster child or a live-in-aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residence by a foster child or a live-in-aide, and defining when PHA consent may be given or denied.
- Members of the household may engage in legal profitmaking activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. The family must not sublease or let the unit.
- The family must not assign the lease or transfer the unit.

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

Interest in unit. The family must not own or have any interest in the unit.

Fraud and other program violation. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.

Crime by household members. The members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (see Sec. 982.553).

Alcohol abuse by household members. The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

Other housing assistance. 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.

1. Supplying required information *§982.551 (b. 1-4)*
2. ~~**HQS**~~ **NSPIRE** breach caused by family *§982.551(c.)*
3. Allowing PHA inspection *§982.551(d.)*
4. Violation of lease *§982.551(e.)*
5. Family notice of move or lease termination *§982.551(f.)*
6. Owner eviction notice *§982.551(g.)*
7. Use and occupancy of unit *§982.551(h. 1-7)*
8. Absence from unit *§982.551(i.)*
9. Interest in unit *§982.551(j.)*
10. Fraud and other program violation *§982.551(k.)*
11. Crime by household members *§982.551(l.)*
12. Alcohol abuse by household members *§982.551(m.)*
13. Other housing assistance *§982.551(n.)*

C. Terminations [24 CFR 982.551, 24 CFR 552, and 24 CFR 553]

1. The HA will permanently terminate the assistance of participants who:

   - Are required to register under a State Sex Offender Registration Program.
   - Have been convicted of drug-related criminal activity for the manufacturing or production of methamphetamines on the premises of federally assisted housing.

2. The HA will terminate the assistance of participants for a period of five years for the following violations:

   - Any member of the family has engaged in drug related criminal activity, or violent criminal activity as defined in **[24 CFR 982.553].**
   - A household that consist of an adult family member who is currently engaged in the illegal use of drugs or whose pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
   - Any member of the family who commits fraud, bribery, or any other corruption in connection with any Federal Housing Program.
   - The family subleases their unit (a promissory note will be issued to recoup paid rent).
   - The family owns or has interest in the unit.
   - A member of the family has been evicted from federal assisted housing in the last 5 years. However, they may be assisted, if they are in good standing with no current criminal activity, currently employed or furthering their education and owe no debt to DCHA or Landlord
   - A participant who engages in or threatens abusive or violent behavior towards any HA staff or resident.

- Any household member who is convicted of a felony in the last ~~5~~ 3 years may be terminated. Any household member convicted of a felony will be subject to the termination/appeal process. If deferred adjudication, HA may request a court order document to verify dismissal or completion of the deferred adjudication. If client case is still pending with court system and there is no final disposition. Client must provide documentation of current status at next annual reexamination and/or relocation.

3. HA will terminate assistance to Housing Program participants until the next open enrollment if they violate the following family obligations**:**

   - The family violates any family obligations under the Housing Choice Voucher Program.
   - The family fails to make three consecutive payments under an existing repayment agreement with any housing agency.
   - The family abandons their unit without giving notice.
   - A family member has a pattern of abuse of alcohol and/or drugs that threaten the health, safety, or right to the peaceful enjoyment of the premises by other residents.
   - Any family member fails to sign and submit consent forms required for obtaining information on family status.
   - <u>Revocation of consent or refusal to sign the consent form prohibits DCHA from requesting and accessing income information and financial records, including pulling any EIV reports and using EIV data to verify income.</u>
   - Any family member fails to declare citizenship or provide documentation of eligible non-citizen status within the prescribed time frame.
   - The family is evicted from assisted unit for a serious or repeated violation of the lease.

4. Enterprise Income Verification (EIV)

   Terminations and amounts owed by the family will be reported to the Enterprise Income Verification (EIV) system. This report will also be made available to other housing agencies for their review.

D. Informal Hearings [24 CFR 982.555]

1. The HA will provide the opportunity for an informal hearing to program participants who are being terminated from the program. The HA will send written notice of the

reason(s) for the proposed action, and advise the participant that if he/she does not agree with the decision, he/she may request an informal hearing, in writing, within 10 working days of the notice. If the participant requests a hearing, the assistance will not be terminated until the final decision is made.

2. When a participant requests a hearing, the HA will schedule the hearing promptly and notify the participant of the date and time of the hearing. Prior to the hearing, the participant will be given an opportunity to examine and copy any documents pertinent to the family's termination.

3. The hearing will be conducted in accordance with the HA's Informal Hearing Procedure. The family may be represented by a lawyer or other representative, at its own expense. The family will be given the opportunity to present evidence, and to question any witness. The hearing officer will issue a written decision within 10 working days, stating the reasons for the decision.

4. An informal hearing will also be provided for participants who believe that their annual or adjusted income, utility allowance, or allowable unit size has not been determined in accordance with the law, HUD regulations, or the HA's policies. These participants will first be given an explanation of the basis for the HA's determination. If the family still does not agree with the determination, an informal hearing will be scheduled as above.

5. Should the client not agree with the decision of the first informal hearing, a second and final informal hearing may be requested. The second informal hearing must be requested in writing within 10 working days of the decision of the first hearing. The determination rendered at the second hearing is considered final and binding.

Section X. Dallas County Housing Agency Assistance Program (DCHA)- Project-Based Voucher Program

A. General

The Project-Based Voucher (PBV) Program is a component of **DCHA's** Housing Choice Voucher (HCV) Program. **DCHA** administers the PBV program in accordance with federal regulations, 24 CFR Part 982 and CFR Part 983, under which the U.S. Department of Housing and Urban Development (HUD) allows public housing authorities to set aside a portion of their total Annual Contributions Contract (ACC) unit count for project-based voucher assistance.

24 CFR 983.203 Family Participation (d)(1,2,3).

(d) Briefing of families. When a family is selected to occupy a project-based unit, the PHA must provide the family with information concerning the tenant rent and any applicable utility allowance, and a copy of the lead hazard information pamphlet described in §35.130 of this title, except that the PHA need not provide the pamphlet if the PHA can demonstrate that the pamphlet has already been provided in accordance with §135.130 of this title. The family also must be provided with a full explanation of the following, either in group or individual sessions:

1. Family and owner responsibilities under the lease and HAP Contract;
2. Information on Federal, State, and local equal opportunity laws;
3. The fact that the subsidy is tied to the unit, that the family must occupy a unit constructed or rehabilitated under the program, and that a family that moves from the unit does not have any right to continued assistance.

B. Goal of the Project-Based Assistance Program

DCHA's program goals are to expand the affordability of rental housing in **DCHA**'s jurisdiction for qualified households; make project-based rental subsidies accessible so qualified families can afford safe, habitable dwellings that are functionally adequate, operable, and free of health and safety hazards to maintain full utilization of HUD allocated vouchers; and prevent the concentration of poverty.

It is the intention of **DCHA Commissioners' Court** that project-based vouchers be employed in the following ways:

1. Housing for homeless individuals and families.
2. Housing for elderly persons;
3. Housing for people with disabilities;
4. Assistance with development of affordable housing;
5. Housing for ex-offenders assimilating back into society;
6. Housing for non-elderly

C. Small Area Fair Market Rent (SAFMR)

DCHA is subject to small area fair market rents, or SAFMRs. SAFMRs are FMRs calculated for ZIP Codes within Metropolitan Areas. Small Area FMRs are required to be used to set Section 8 Housing Choice Voucher payment standards in areas

designated by HUD

D. Solicitation of Project Based Assistance Provider

In addressing the community needs stated in the program goals DCHA will utilize the following process in identifying availability of appropriate providers:

1. Advertisement

DCHA may advertise the availability of PBV assistance in accordance with HUD regulations, including notifying HUD. Advertisement will be placed in local newspapers of general circulation, including Dallas' largest newspaper; minority newspapers that are published in languages other than English; and on **DCHA**'s website. These efforts are intended to affirmatively further fair housing. The advertisement will run once a week for a period of two consecutive weeks. The advertisement will specify the number of vouchers available to be project-based, the type of units that will be considered for the project-based program, and the submission deadline.

All advertisements for the PBV program will contain a statement that participation requires compliance with Fair Housing and Equal Opportunity requirements, and that the provisions of the Fair Labor Standards Act and Contract Work Hours and Safety Standards Act, Section 3 of the Housing and Urban Development Act of 1968 and associated implementing regulations, and the federal equal employment opportunity requirements of Executive Order 11246 as amended, may be applicable for new construction and substantial rehabilitation properties.

2. Internal Review and Determination of Existing Available Community Resources

Alternatively DCHA may perform an internal review of resources/providers based on the community needs. The internal review process may involve referrals, proposals and/or opportunities that best address such needs. While making such a determination, DCHA will

consider factors such as quality, affordability, accessibility, compliance with fair-housing and Equal Housing Opportunity requirements and any other related elements that DCHA can leverage to best serve the identified population.

E. PHA-Owned Units and Independent Entities

When **DCHA** requires HUD approval of a proposed independent entity, **DCHA** must submit a joint certification from both **DCHA** and the independent entity to the local HUD Office for HUD approval. The certification must state that **DCHA** and the proposed entity have no legal, financial, or any other connection that could cause either party to be improperly influenced by the other, and that the proposed independent entity will perform its responsibilities as it relates to **DCHA**-owned units in an unbiased manner. **DCHA** will provide supporting documentation at HUD's request.

F. Selection of PBV Owner Proposal

DCHA will select PBV proposals pursuant to one, or some combination of the following methods:

A. **DCHA** will issue a request for PBV proposals as provided in 24 CFR §983.51(b)(1). If **DCHA** uses this method to select PBV proposals, **DCHA** will provide public notice of the request for PBV proposals. **DCHA** will also post notice on **DCHA**'s website. In order for the proposal to be considered, the owner must submit a proposal to **DCHA** by the published deadline date, and the proposal must be responsive to all requirements as outlined in the Request for Proposal (RFP). Incomplete proposals will not be reviewed.

B. As provided in 24 CFR §983.51(b)(2), **DCHA** may determine to provide PBV funding to a proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g. HOME and units for which competitively awarded Low Income Housing Tax Credits have been provided), where the proposal has already been selected in accordance with such program's competitive selection requirements within three years of **DCHA**'s PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive **DCHA** PBV assistance. Exhibit Y. Project Based Voucher Program. NOTICE PIH 2017-21 (HA). Issued: October 30, 2017.

C. As provided in 24 CFR §983.51 and §983.59, a PHA-owned unit may be assisted under the PBV program. PHA-owned units are defined in Notice PIH 2017-21 Exhibit Y, and HUD requirements for review by an independent entity are outlined in in Notice PIH 2017-21 Exhibit Y.

Notice of owner selection will be provided as follows: **DCHA** will give prompt written notice to the party that submitted a selected proposal. The award notice will include the number of vouchers awarded and state a deadline by which all other agreements must be executed. In addition, owners awarded project-based vouchers must submit the following plan to **DCHA** for review and approval prior to execution of an Agreement to enter into a Housing Assistance Payment (AHAP):

1. Marketing Plan to describe marketing and outreach activities;

2. When required by the RFP, a contract between the property owner and supportive service provider(s) whose activities will be necessary to the success of the client group targeted by the RFP;

3. Waiting List Management Plan which includes information related to accepting application and record keeping;

4. Tenant Selection Plan for selecting tenants from the project's waiting list that covers tenant selection, screening criteria and procedures and requirements when applicants are ineligible.

DCHA will also give prompt public notice of award of PBV in a local newspaper of general circulation and on **DCHA**'s website to provide broad public notice. The announcement will include the name of the owner/project and the number of PBV that were awarded.

DCHA will not select a proposal or commence an AHAP, or execute a HAP contract on existing units, until it determines that the proposed site/units comply with PBV goals, civil rights requirements, and ~~**HQS**~~ **NSPIRE**, unless otherwise provided in 24 CFR §983.57(b).

G. Subsidy Layering Review (SLR) Prohibition of Excess Public Assistance

The purpose of a subsidy layering review (SLR) is to avoid excess subsidy by combining (layering) housing assistance subsidy under the PBV program with other governmental assistance from federal, state, or local agencies, including but not limited to, assistance such as tax concessions or tax credits. SLRs are required only for projects involving new construction and rehabilitation.

When a new construction or rehabilitation project has been selected pursuant to program regulations at 24 CFR part 983, and the project combines other forms of governmental assistance, **DCHA** must conduct an SLR. An SLR shall not be required for project-based assistance (1) for an existing structure, or (2) if a subsidy layering review has been conducted by the applicable state or local agency.

DCHA may provide PBV assistance only in accordance with HUD SLR requirements. SLRs must be completed and approved by a qualified Housing Credit Agency (HCA) or by HUD, for all PBV projects that use other publicly supported housing funds, such as Low-Income Housing Tax Credit funding. When conducting an SLR, **DCHA** will do the following:

A. **DCHA** shall obtain from the owner all the information required by the HUD mandated SLR checklist.

B. **DCHA** shall complete the SLR, including checks for completeness and compliance with program requirements.

C. When the SLR is complete and acceptable, **DCHA** shall forward the SLR package to HUD's local office for processing.

D. **DCHA** will not enter into an AHAP until HUD, or an independent entity approved by HUD, has conducted any required SLR and determined that the PBV assistance complies with HUD's SLR.

H. Environmental Review

Every PBV project is subject to HUD environmental review requirements at 24 CFR Part 50 or Part 58 and 983.58. Prior to execution of an AHAP, the owner must present evidence that the environmental review has been performed by a HUD designated "responsible entity" and approved by HUD, or, where applicable, categorically excluded from review under the National Environmental Policy Act of 1969, unless HUD notifies **DCHA** in writing of environmental approval of the site.

I. Cap on Number of PBV Units in each Project

Except for properties serving elderly persons or persons with disabilities, no more than 75 percent of the units in a project may receive project-based vouchers. Units in a single-family building, defined as any building with 1-4 units are exempt from this cap.

An additional category of units referred to as "excepted" units are also exempt from the 25 percent cap. Excepted units are units that will house a qualifying family, defined by HUD as a household where at least one member is eligible to receive at least one supportive service for the term of the executed HAP contract. To the extent that more than 75 percent of the units in a project receive project-based vouchers, supportive services will be offered (either by DCHA or by outside service providers). When DCHA exercises flexibility to exceed the 75 percent cap through excepted units, then the use of such services by family members will be monitored and tracked during each family's annual recertification.

Such services will be appropriate for the needs of the families and may include the following:

A. In properties for senior citizens and people with disabilities, services may include:

1. Case management;
2. Behavioral health services;
3. Physical health services (wellness, fitness, vision, hearing and clinic services);
4. Substance abuse resistance;
5. Nutrition and community gardening;
6. Transportation;
7. Housekeeping aid; or
8. Other services designed to help the recipient live in the community as independently as possible.

1. Early childhood education and childcare;
2. Before and after school care for school age children;
3. Summer nutrition;
4. Computer literacy;
5. Job training, educational, and employment services; or
6. Other services designed to help the recipient live in the community as independently as possible.

J. Housing Assistance Payment Contract

Term of Project-Based Assistance Contract

1. Upon selection of the site/units, **DCHA** will enter into an agreement with the owner to execute a HAP Contract in accordance with HUD requirements for contracts as provided at 24 CFR §§982.162 and 983.152, including a HAP contract if the agreement is for existing units.
2. **DCHA**'s project-based HAP contract will be executed for a term of not less

than one (1) year or more than 20 years for each contract unit as provided at 24 CFR §983.205, and is subject to future availability of funding under **DCHA**'s ACC.

3. The HAP contract will be executed when all of the HAP contract requirements as provided at 24 CFR §983.204 have been met.

4. The HAP Contract will contain all required information as provided at 24 CFR §983.203.

5. When supportive services are included in the agreement, contracts for project-based vouchers will not be executed until **DCHA** receives a fully executed contract between the owner and service provider(s) for the provision of the supportive services necessary to ensure the housing success of the target client group.

Extension/Renewal of Term

At any time before expiration of the initial term, **DCHA** may agree to extend the term of the HAP contract for an additional term of up to 20 years, if **DCHA** determines an extension is appropriate. Subsequent extensions are subject to the same limitations any renewals or extension of the project-based HAP Contract is subject to future availability of funding under **DCHA**'s ACC. Owners that are requesting a renewal must submit a Contract Renewal Request Form at least 120 days before the contract expiration.

Termination of HAP Contract

6. Cost Savings Measures

Before termination of a HAP contract, **DCHA** will first pursue cost savings measures. **DCHA** will make every effort to preserve affordable housing. **DCHA**'s cost savings measures are outlined in **DCHA**'s Termination of HAP Contract Insufficient Funding [24 CFR 982.454] Exhibit O.

7. Termination by **DCHA** for Insufficient Funding

As provided in the HAP contract **DCHA**'s contractual commitment is subject to availability of sufficient funding as determined by HUD or **DCHA** in accordance with HUD instructions. If it is determined that there may not be

sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, **DCHA** has the right to terminate the HAP contract by notice to the owner for all or any units under contract **[24 CFR 983.206].** The HAP contract will provide that the term of **DCHA**'s contractual commitment is subject to the availability of sufficient appropriated funding (budget authority) as determined by HUD or by **DCHA** in accordance with HUD instructions. Termination of HAP Contract Insufficient Funding [24 CFR 982.454] Exhibit O.

8. Termination by Owner for Reduction Below Initial Rent

If a rent reasonableness test results in a reduced amount below the contract rent, the owner may elect to terminate the HAP contract and the tenant must be offered the next available tenant-based voucher **[24 CFR 983.206].**

9. Termination by **DCHA** for Failure to Supply Agreed-upon Supportive Services

Since supportive services are an essential element of assisting currently or formally homeless individuals or other special need populations, **DCHA** will terminate the contracts of owners who fail to maintain the agreed-upon supportive services, outlined in the MOU/MOA between owner and provider for PBV clients. Should this occur, the clients will be issued Housing Choice Vouchers and be referred to entities that can provide needed supportive services.

10. Termination by **DCHA** for Failure to meet Housing Quality Standards

If the property fails to meet Housing Quality Standards and the owner fails or is unable to make necessary improvements to the property, **DCHA** will exercise any available remedies up to and including terminating the HAP contract and issuing tenant-based housing choice vouchers to the clients.

B. HAP Contract Amendments

1. Substituting Contract Units

At the discretion of **DCHA**, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract. **DCHA** must inspect the proposed substitute unit and must determine the reasonable rent for such unit.

2. Add Contract Units

At the discretion of **DCHA**, existing PBV HAP contracts may be amended to add contract PBV units to the same project without competitive selection, by mutual agreement of **DCHA** and the owner, if **DCHA** has adequate voucher and budget authority at the time the request is received, and:

a. The project undergoes a new SLR and is approved by HUD.

b. The total number of units in the building that will receive PBV assistance will not exceed 25 percent of the number of dwelling units in the project, unless excepted units. Exhibit Y. Project Based Voucher Program. NOTICE: PIH 2017-21 (HA). Issued: October 30, 2017

c. The owner is in good standing and has acceptably performed all requirements under the HAP contract.

d. Addition of unit is consistent with any **DCHA** requirement for PBV units at the time the request is made.

e. The amendment is subject to all PBV requirements.

K. DCHA Monitoring of Supportive Services

When supportive services are provided, owners and/or supportive service providers for PBV units with special needs populations are obligated to report to **DCHA** regarding any changes in the supportive services *before* the changes are made (i.e. any changes in the Service Provider Agreement in the original RFP). **DCHA** must not require participation in the supportive services as a condition of living in a PBV unit; however, the service provider and owner may include supportive service agreements as part of the leasing agreements. **DCHA** requires quarterly reports from supportive service agencies (i.e. lease compliance, if a client has vacated the unit, and/or any other action that would violate **DCHA**'s PBV program).

As part of the PBV application process, each owner/project sponsor must articulate key program goals and core performance indicators in their proposal. The owner/project sponsor will be required to describe how participant households will be monitored for compliance with their PBV Contract of Family Participation/Family Obligations. During each 12-month cycle of the family's contract, the owner/project

sponsor must certify that it continues to provide supportive services. This data should be included in the annual performance report (PBV-APR) to be submitted to **DCHA**.

L. Occupancy

A. Unit Selection (for Existing Housing and Rehabilitated PBV)

DCHA anticipates that it will offer several types of project-based assistance programs; therefore, the unit selection will be based on the needs of that particular project and determined by the owner with final approval by **DCHA**. After HAP contract execution, the owner must seek written approval and a HAP contract amendment to make any substitutions to the units or the unit mix.

B. Protection of In-Place Families

The protection for victims of domestic violence, dating violence, sexual assault, and/or stalking, as provided in 24 CFR Part 5, subpart L, apply to participants in the PBV program. [Violence Against Women Reauthorization Act of 2013 (VAWA 2013)].

To minimize displacement of in-place families, for an existing unit or one requiring rehabilitation and occupied by an eligible family on the proposal selection date, the in-place

family must be placed on the PBV waiting list (if not already on the waiting list) and, once its continued eligibility is determined, given an absolute selection preference and referred to the project owner for an appropriately sized PBV unit in the project.

For existing units or those requiring rehabilitation, an eligible family that is residing in a proposed contract unit, on the date of proposal selection, is considered an "in place family". Eligible in-place families will be given a selection preference and will be placed on the waiting list for the project. **DCHA** may deny assistance to the family for the grounds specified in 24 CFR 982.552 and 982.553.

Eligible in-place families are not subject to income targeting requirements. If an in-place family is determined ineligible by **DCHA** or does not wish to participate in the PBV program, **DCHA** will give the owner the option to substitute that particular unit for another unit, or the owner can wait until the end of the family's lease term. **DCHA** must not select or enter into an agreement or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. The owner cannot evict (displace) any families prior to lease expiration for the purposes of moving an eligible PBV family into the unit.

c. Waiting List

1. The protection for victims of domestic violence, dating violence, sexual assault, and/or stalking, as provided in 24 CFR Part 5, subpart L, apply to admission to the PBV program.

2. PBV properties, whose contract award specified assistance to special needs populations (per the RFP) will submit referrals to PBV site-based waiting list. Any families selected from PBV site-based waiting lists must meet owners' screening criteria prior to receiving a project-based voucher. The owner can help ensure timely turnaround of vacant units by conducting outreach efforts in accordance with **DCHA** policies. If the supportive service provider makes referrals to the owner, it is still the owner's responsibility to conduct screening on qualified families from the PBV site-based waiting list.

3. During lease-up and subsequent re-leasing **DCHA** will carry out all processes necessary to determine eligibility and rent. This will include the following actions:

    1. Reviewing the application package for completeness and internal consistency;

    2. Reviewing applicant-provided information such as photo IDs, social security cards, birth certificates and HUD 214 forms;

    3. Verifying all information on income, citizenship or eligible immigration status, social security numbers and all deductions;

    4. Determining each family's annual income, adjusted income, utility allowance (if applicable), total tenant payment and tenant rent;

    5. Conducting the criminal history check on all adult applicants;

    6. Referring eligible applicants to the owner for pre-occupancy screening, unit assignment, leasing and orientation

4. The waitlist contains, but is not limited to the following information for each applicant:

    a. Date and time or lottery of application

b. Applicant name, address, social security number, and contact number

c. Family unit size

d. Family size

e. Racial or ethnic designation of head of household

f. Income source

g. Annual gross income

h. Program qualifications

D. Tenant Screening

1. **DCHA** option. **DCHA** determines eligibility for the Section 8 PBV program, but **DCHA** has no responsibility or liability to the owner or to any other person for the family's

2. behavior or suitability for tenancy. However, **DCHA** may elect to screen applicants for criminal background and debts owed to **DCHA** or any other PHA and may deny admission based on the screening results.

3. Owner responsibility. The owner is responsible for screening and selection of the family to occupy the owner's unit. The owner may consider a family's background with respect to such factors as payment of rent and utility bills, caring for a unit and premises, involvement in any drug-related criminal activity or other criminal activity is a threat to

   the health, safety, or property of others, respect for the rights of other residents to the peaceful enjoyment of their housing, and compliance with other essential conditions of tenancy.

4. The family must comply with all other HCV program participant screening and eligibility requirements.

E. Tenant Selection

The owner is responsible for developing written tenant selection procedures. Tenant selection procedures must be approved by **DCHA** prior to the execution of the HAP contract. Owners are responsible for selection of tenants for units assisted with project- based vouchers from among the families on the waiting list. Project-based voucher holders must come from outreach efforts conducted by the property owner/manager.

DCHA will collect the required forms from tenants to be in compliance with

DCHA PBV requirements. These forms will include but will not be limited to: Form HUD-9886, Declaration of Citizenship Status, Application for Assistance, Criminal Background Release, and Statement of Family Obligations.

The owner will be responsible for collecting all the required screening forms and determining the tenant's suitability for residency in their property. The owner/service provider will provide a copy of the application materials to **DCHA** to verify program eligibility. All tenant transactions will be managed by the manager.

Except for in-place residents who receive PBV assistance, not less than 75 percent of the families admitted from **DCHA**'s tenant-based and project-based the waiting list during **DCHA**'s fiscal year shall be extremely low-income families.

Occupancy Standards

DCHA will use the same occupancy standards for project-based participants as for HCV participants. In the event that the current project-based waiting list does not contain applicants that meet the criteria for units available, the next eligible applicant may be selected so long that at least one person occupies each bedroom.

F. Lease Term

The initial lease term for project-based units is one year.

G. Conversion to Tenant Based/Portability Voucher

Families who reside in a project-based unit for at least twelve months may request to move with continued assistance (tenant-based assistance), if funding is available. Families are subject to the same rules as any other tenant-based participant. The family that moves out of the project-based unit is replaced with a new household from the waiting list. If a voucher is not available, the family may remain in the project-based unit for the remainder of the HAP contract. The family will be placed on the project-based HCV waiting list and will be issued a voucher when one is available prior to a family on the HCV waiting list.

H. Annual Reexaminations and Interim Reexaminations

1. Families who reside in a project-based unit may experience changes in their income or family composition.
2. **DCHA** will perform all interim adjustments and annual recertification.
3. **DCHA** will provide the owner a notice of rent change and completed reexam at least 90 days prior to the anniversary of the annual reexamination. In some cases, **DCHA** will have to make arrangements to meet with the family.

DCHA will conduct an annual reexam briefing with families to review the program requirements, update families of changes to the program, and to discuss project concerns with the family. **DCHA** will provide the owner with notice of briefing appointment and the owner should provide a common space for these briefings on the property.

I. Vacancy Payments

DCHA will provide PBV owners an opportunity to retain the full HAP for the calendar month in which a tenant vacates, plus a vacancy payment equal to 80 percent of the contract rent for the following calendar month so long as the unit is not re-leased and occupied. The HAP contract will not provide for vacancy payments after that date.

DCHA will pay vacancy loss as outlined above following a client move-out if:

1. The owner gives **DCHA** prompt written notice of the vacancy;
2. The vacancy is not the fault of the owner;
3. The owner has taken every reasonable action to minimize the likelihood and length of the vacancy;
4. The owner provides any additional information required and requested by **DCHA** to verify that the owner is entitled to vacancy payment.

J. Reduction in the contract number of Project-based Units

Project-based units that are not rented by an eligible family within 180 days of becoming vacant will be terminated from the project-based assistance contract. Appeals will be allowed but will be granted only in extraordinary circumstances. A unit that has consistently failed ~~**HQS**~~ **NSPIRE** inspections

will also be terminated from the project-based assistance contract.

K. Termination of Service Provider/Owner Relationship

If at any time, the supportive service provider terminates the relationship with the owner or the owner chooses to terminate the relationship with the service provider, **DCHA** will review the HAP contract and the procurement of the services to determine if the HAP contract should be terminated or continued. Any changes in ownership or service provider must be approved in writing through a HAP contract amendment by **DCHA**. **DCHA** reserves the right to not make any requested amendments to the contract.

If contract is terminated prematurely, **DCHA** will offer the PBV tenants an HCV voucher at the end of their existing lease term. The tenant may

choose to remain on the property under the HCV program or can relocate using the HCV voucher.

M. ~~Housing Quality Standard~~ ~~(HQS~~ NSPIRE) Inspections and Rent Reasonableness

A. Pre-Selection Inspection

DCHA must examine the proposed site before the proposal selection date to determine if the units substantially comply with ~~**HQS**~~ **NSPIRE**. **DCHA** shall inspect each contract unit before executing a HAP contract.

B. Pre-HAP Contract Inspections

DCHA must inspect each contract unit before execution of the HAP contract. **DCHA** may not enter into a HAP contract covering a unit until the unit fully complies with the ~~**HQS**~~ **NSPIRE**.

C. Turnover Inspections

Before providing assistance to a new family in a contract unit, the **DCHA** must inspect the unit. The **DCHA** may not provide assistance on behalf of the family until the unit fully complies with the ~~**HQS**~~ **NSPIRE**.

D. Annual or Biennial Inspections

DCHA may inspect the units annually or biennial.

Annual Inspection of Units [24 CFR 982.405(a)]

1. At least once a year, ninety (90) days prior to the anniversary date of the HAP contract, HA will conduct an inspection of each assisted unit. If HA determines that the unit is not in compliance with inspection standards, a notice will be sent to the owner advising him/her of the repairs needed. Thirty (30) days will generally be allowed for the owner to make the repairs, except for repairs needed to correct a condition determined by HA to be life-threatening, which must be made within 24 hours. HA will re-inspect the unit after the time allowed or at such earlier time as the owner notifies HA that the repairs have been made. If the repairs have not been made after 30 days, the HAP payment will be abated until the repairs are made or until the anniversary date of the contract. If repairs are not made by the anniversary date of the HAP contract, the HAP contract will be terminated and the family advised to look for another unit.

Biennial Inspections: Dallas County Housing Agency may now elect to conduct housing quality standards (~~**HQS**~~ **NSPIRE**) inspections biennially rather than annually for assisted units.

2. No retroactive payment will be made for the period after the first 30 days during which the unit was not in compliance with ~~**HQS**~~ **NSPIRE**.

3. HA will bar owners who have three units abated or terminated for non-compliance with ~~**HQS**~~ **NSPIRE** from future participation in the Housing program.

4. If the unit fails ~~**HQS**~~ **NSPIRE** for reasons attributable to the family's care or use of the unit, the family will receive written notification of the actions to be taken and a copy of the notice will be sent to the owner. Such failure may occur when the family fails to pay for utilities that are to be paid by the family, fails to provide or to maintain in working order any appliances that are provided by the family, or when a member or guest of the family causes damages to the unit beyond normal wear and tear. The family will be given 30 days to correct the defect or 24 hours if the resulting condition is determined by HA to be life threatening. If the defect is not corrected by the family during the time allowed the HAP contract and the family's participation in the program will be terminated.

5. The family or the owner may request an inspection at any time during the year if a deficiency exists and if efforts to have the deficiency corrected by the responsible party—owner or family—have failed. The inspection and HA's follow-up will be handled as described in B 2 and B 4, above.

At least biennially during the term of the HAP contract, **DCHA** must inspect a random sample, consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are

maintained in accordance with ~~**HQS**~~ **NSPIRE**. Turnover inspections are not counted toward meeting this inspection requirement. If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, then **DCHA** must re-inspect 100 percent of the contract units in the building.

E. Housing Accessibility for Persons with Disabilities

The housing must comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part. 8.

Housing first occupied after March13, 1991 shall comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable.

F. Rent Reasonableness and Rental Adjustments

DCHA will conduct a rent reasonableness survey on all units prior to the execution of the HAP contract. If the owner desires a rental adjustment at the anniversary of the HAP contract, the owner must request a rental adjustment in writing at least 90 days prior to the HAP contract anniversary. **DCHA** will determine whether the rent requested is reasonable and will make the appropriate adjustments (increase or decrease) in order to comply with rent reasonableness requirements.

DCHA will only entertain rental adjustment requests at anniversary of HAP contract and not on family lease terms, which may or may not coincide. The application of the approved rental adjustment will be processed for all assisted units within the HAP contract, regardless of the lease term per family; so long as proper notice has been provided.

Section XI. Program Management

A. Leasing Units

1. The HA will take all actions necessary to reach and maintain a utilization rate of at least 95% of allocated units based on funding availability. (Please note that the total HAP funding eligibility for the agency depends on the total available HAP renewal funding per the Annual Appropriation Act. If the proration of less than 100 percent eligibility is applied to the nationwide eligibility, DCHA may serve families within its annual allocations to avoid financial shortfall).

2. HA tracks various critical financial elements of HCVP and prepares report to communicate such information to management. The monthly report includes, but not limited to Budget Utilization, Unit Utilization, and Income and Expense Summary.

B. Payment of Utility Reimbursement [24 CFR 5.632 (b) 2]

The HA will pay a utility reimbursement if the utility allowance (for tenant-paid utilities) exceeds the amount of the total tenant payment.

C. Revising Utility Allowance Schedules [24 CFR 982.517]

1. At least annually, the HA will obtain and analyze utility rate data for all utility providers in the local jurisdiction, and will determine whether there has been a change of 10% or more in the rate for any utility since the last revision of the Utility Allowance Schedule.

2. If there has been a change of 10% or more, an appropriate adjustment to the schedule will be made. No adjustment will be made for any increase calculated to be less than $1 per unit month.

3. The effective date for the new utility allowance is as designated/approved by the Commission Court.

D. Revising Voucher Payment Standards

1. At least annually, the HA will determine whether the payment standard is adequate to allow families to find housing. The HA will analyze data on current voucher program participants, and will determine whether the number of voucher program participants paying more than 40% of their Adjusted Gross Income for rent and utilities is significant.

2. If HA determines that a significant number of voucher program participants are paying more than 40%, data on the rent and utility cost of units in the market area will also be examined to determine whether there is an adequate supply of rental units of all sizes available at or below the payment standard families who do not choose to accept an excessive rent burden.

3. The payment standard for each unit size will be set at a level adequate to allow families to lease units under the voucher program. However, under no circumstances will the voucher payment standard be set at less than 100% or more than 110% of the published Fair Market Rent without HUD approval, unless the

reason for the increase is based on increased cost of utilities, in which case the payment standard may be raised to 120% of FMR without HUD approval.

4. The effective date for the new payment standards is as designated/approved by the Commission Court.

E. Internal Control Procedures

Organizational Structure: The organization structure provides an overview of the internal control environment. The Dallas County Commissioners are at the top of the structure with the Director of DCHHS at the top of the agency, reporting to the Dallas County Commissioners. The Asst. Director of Housing reports to the Director of DCHHS and so does the Asst. Director of Finance, Budget and Contracts. The Housing Supervisor, to whom the case managers report to, reports to the Asst. Director of Housing and the Grants Management Officer, to whom the financial staff report to, report to the Asst. Director of Finance, Budget and Contracts.

Budget Development and Approval Process: The Grants Management Officer in conjunction with the Asst. Director Finance, Budget and Contracts develops the annual budget at the start of the fiscal year. The budget is reviewed by the DCHHS Director and presented to Court for final approval by the Dallas County

Commissioners. (Please refer to Section X. G.)

Cash Management: Cash management assures the use of proper procedures and internal control when processing revenues received from grantors and other cash

collections, such as receipts from other agencies for portability cases, receipts from clients for unintentional fraud, recovery from OIG for intentional fraud cases, overpayments received from landlords etc. The following areas provide reasonable assurance that funds intended for the program are safeguarded and handled appropriately:

- revenues from grantor received by direct deposit is reconciled monthly to ensure accuracy and deposit to the correct fund;
- receipts from other housing authorities for portability cases are reconciled to the contracts and deposited accordingly;
- checks for overpayment from landlords are matched with appropriate overpayment document prior to deposit;
- all fraud related receipts are recorded and deposited timely;
- all receipts in the form of checks and/or money orders awaiting deposit are safeguarded in secure area;
- deposits are prepared by Housing Accounting Specialist, reviewed by Grants Management Officer and approved by the Asst. Director of Finance, Budget and Contracts

- surplus or deficit in excess of a cumulative 5% of the budget will be reviewed and grantor notified for further action

HAP Expenditures: (i) New Cases-Assistance authorizations are prepared by the case managers, approved by the case manager supervisors and submitted to Financial Administration for processing. Financial Administration clerk prepares request for payments that is reviewed by Grants Management Officer and approved by Asst. Director of Finance, Budget and Contracts. The approved requests for payments are then sent to the Auditor's Office for payments to be generated. (ii) Ongoing Cases-The rental authorization is reviewed by case managers, approved by the Asst. Director of Housing and forwarded to Financial Administration for processing. Financial Administration clerk prepares request for payments that is reviewed by Grants Management Officer and approved by Asst. Director of Finance, Budget and Contracts. The approved requests for payments are then sent to the Auditor's Office for payments to be generated. Program monitors will review case files to ensure that HAP disbursements are accurate and backed by appropriate documentation. (Refer to Section X I. for more details on HAP Disbursements.)

Other Expenditures:— Non-payroll expenditure is processed through a requisition that prepared by Financial Administration clerk, reviewed for allow ability by the Grants Manager, coded to the appropriate cost center by the Grants Manager, reviewed by the Grants Management Officer and approved and routed through the Auditor's Office to the Purchasing Department by DCHHS Director for issue of Purchase Order. On receipt of the goods/services the invoice is stamped with a receipt of materials requested (RMR) stamp, approved by the Grants Manager and sent to the Auditor's Office for payments to be generated.

Payroll expenditures are based on completed and certified time-sheets, and time-allocation worksheets, where necessary, and processed in accordance with Dallas County policies and procedures

Reporting: Pursuant with the Uniform Financial Reporting Standards (UFRS), per 24 C.F.R. § 5.801, DCHA submits required financial information to the Department of Housing and Urban Development (HUD) electronically. Fiscal year end (FYE) financial information is submitted to HUD through the Financial Assessment Subsystem for Public Housing (FASS-PH), and monthly leasing and cost data through the Voucher Management System (VMS). DCHA as a part of a Larger General Purpose Government declares the HCV programs a Special Revenue fund and submits FASS using modified accrual as required by GAAP.

Reporting Waiver and Extension Requests: There may be occasions where DCHA may require additional time to make electronic submissions. In such instances DCHA may request a waiver or extension from HUD as stipulated in PIH 2015-16.

Financial reporting such as the voucher management system (VMS) are prepared by the Grants Manager, reviewed by the Grants Management Officer and approved by the

Asst. Director of Finance Budget and Contracts prior to submitting reports to the grantor. The Real Estate Assessment Center report is prepared by the Grants Manager, reviewed by the Grants Management Officer in conjunction with the internal auditors approved by the Asst. Director of Finance Budget and Contracts, routed through the external auditors prior to submitting report to the grantor. Utilization, Administration and Expense Reports are prepared monthly by the Grants Manager, reviewed by the Grants Management Officer and submitted to the DCHHS Director to accurately assess cash position and budget and unit utilization.

Property Control: Item purchased through the grant, that meets the capital threshold of $5,000 or greater are tracked and managed. Financial Administration maintain an updated property listing of capitalized & non-capitalized items, tracks such items when required and follow established procedure for disposing obsolete equipment. The capitalized items are tagged with property tags. An annual review of all items is performed and certification of equipment-on-hand is completed by Asst. Director of Finance, Budget and Contracts, reviewed and approved by the DCHHS Director and submitted to the Auditor's Office. Lost or stolen items must be backed by official incident reports detailing the loss. (see attached copy of County policy on property management guidelines). Old/obsolete equipment that is not in use and needing to be disposed must be done so in a proper manner. The disposition must be authorized by the Department Head and approved by Commissioners Court and communicated to the grantor as such.

Compliance Monitoring:

Compliance review and monitoring of client case files is performed by the Monitoring and Compliance Section of the Financial Administration Division. The monitoring process will be conducted to ensure eligibility, earned income verification, rent reasonableness, appropriateness of determination of subsidy, utility assistance determination, housing assistance payment portion, etc. In addition to the aforementioned reviews the Monitoring and Compliance Section will perform periodic site visits of the project to ensure compliance with both, HUD and contractual requirements.

F. Reserve

Consistent with Governmental Accounting Standards Board (GASB) guidance, reserve accounts formerly identified by HUD as Unrestricted Net Assets (UNA) and Net Restricted Assets (NRA), are now identified as Unrestricted Net Position (UNP) and Restricted Net Position (RNP), respectively.

Pursuant to 24 CFR 982.155, DCHA maintains reserve accounts, as Unrestricted Net Assets (UNA) and Net Restricted Assets (NRA) are now identified as Unrestricted Net Position (UNP) and Restricted Net Position (RNP), respectively.

1. (Unrestricted Net Assets UNA - Unrestricted Net Position-UNP)

UNP which is a single administrative fee reserve account for the Housing Choice Voucher (HCV) program. On an annual basis DCHA may credit to the UNP the total of the:

(1) the difference between program administrative fees (paid by HUD for a PHA fiscal year) and PHA program administrative expenses for the fiscal year; **plus**

(2) the net of revenue (admin fee payments and HAP reimbursements received from Initial PHAs) and expenses (HAP paid) related to the administration of unabsorbed portability units administered (Port-Ins)3; **plus**

(3) interest and other income earned on the investment of administrative fee reserves (and up to $500 per calendar year in interest and investment income earned on HAP and RNP funds); **plus**

(4) the portion of fraud recoveries actually collected that flows to the administrative fee reserves (usually 50% of total collected)5; **plus**

(5) any other miscellaneous administrative revenues or equity transfers to the HCV administrative fee reserve; **minus**

(6) any expenditures from the reserve account to cover excess HAP costs not covered by HAP funding and HAP reserves (RNP account) or other allowed uses of administrative reserves.

Overall, administrative expenses may decrease the UNP from month to month should not generally increase the UNP from month to month during the FY. Only fraud recovery, Port-In, interest, or other non-HUD revenue may increase the UNP from month to month during the fiscal year.

If funds in the administrative fee reserve are not needed to cover the HA's Housing

Program administrative expenses, HA may use these funds for other housing purposes permitted by State and local law. However, HUD may prohibit use of the funds for certain purpose

The Director is authorized to approve the use of funds in the administrative fee reserve account. The HA will adhere to Dallas County management policies regarding approval to use fund.

Administrative funds earned through the program may be utilized to purchase special equipment and vehicles as needed to further the objectives of the program.

2. (Net Restricted Asset-NRA and Restricted Net Position-RNP)

DCHA's NRA account may only be used within the HCV Program for eligible expenses related to HAP (PHA's share of the rent), family self-sufficiency escrow payments, and utility reimbursements. HAP shall not, under any circumstances, be used for any other purpose.

In the event that HAP expenditures exceeds HAP allocation by HUD, DCHA utilizes NRA account to supplement funds for HAP expenditures. In order to mitigate the accrual of excess funds at the PHA level and to comply with cash management requirements, HUD makes periodic adjustments by reducing the current disbursements to move the HAP reserve funding from DCHA's NRA account to HUD reserve account. DCHA will still be able to access their program reserves for eligible HAP needs.

Interest Earned on NRA

DCHA may retain up to $500 in interest earned on HAP and HAP investments. However, those funds will be recorded and reported as administrative revenue flowing to the UNP.

G. Renewal Funding and Line-Item Appropriations

HUD determines DCHA total annual renewal funding based on set-asides in Appropriation Act of a given year. Typically, the annual renewal funding for HA is obligated during the calendar year, well after the beginning of the DCHA's fiscal year. In the interim, DCHA bases its line-item budget on prior-year funding and later adjusts appropriations in accordance with the final renewal funding by HUD. Additionally, HA may make necessary appropriation transfers between line items to facilitate operational requirements.

DALLAS COUNTY HEALTH AND HUMAN SERVICES
SECTION 8 VOUCHER PROGRAM
APPROPRIATION FOR GRANT 08001
FY2025

LINE ITEM	ACCT Code	8001 HCVP Programmatic Allocation	8071/8072 Financial Administration Allocation	Total Budget Appropriation
ADMINISTRATIVE				
Salaries - Assistant	1020 / 61020	$2,228,370	$678,092	$2,906,463
Salaries - Overtime	1050 / 61050	$0	$0	$0
Salaries - Extra Help	1060 / 61060	$0	$0	$0
FICA	1111 / 61111	$138,159	$42,042	$180,201
Medicare	1112 / 61112	$32,311	$9,832	$42,144
Sick Leave Payoff	1120 / 61120	$0	$0	$0
Insurance -Employer	1140 / 61140	$442,852	$134,760	$577,612
Fringe Benefits Retirement-Emp	1150 / 61150	$310,412	$94,458	$404,870
Workers Compensation- County	1190 / 61190	$11,142	$3,390	$14,532
TOTAL ADMINISTRATIVE		**$3,163,247**	**$962,575**	**$4,125,821**
OPERATING				
Mileage Reimbursement	1080	$2,000		$2,000
Classified Advertising	2011	$7,000		$7,000
Administrative Expense	2030	$80,000		$80,000
Dues & Subscriptions	2080	$12,000		$12,000
Property Less than $5000	2090	$15,000		$15,000
Computer Hardware less than $5	2093	$2,500	$2,500	$5,000
Computer Software	2095	$34,000	$1,000	$35,000
Notary /Bonds Fees	2155	$100		$100
Office Supplies	2160	$74,000	$26,000	$100,000
Postage	2170	$40,000	$10,000	$50,000
Printing / Imaging Expense	2180	$15,000	$5,000	$20,000
Training Fees	2460	$5,000	$5,000	$10,000
County Auto Maintenance	2590	$8,000		$8,000
Maintenance/Labor on Building/	2640	$20,000		$20,000
Groceries-Other	2810	$100		$100
Photo Supplies	2930	$100		$100
Books & Supplements	2950	$100		$100
Uniforms	2970	$6,512	$2,000	$8,512
Auto Expense - Incidental	2980	$100		$100
Refunds	3080	$100		$100
Fuel	3095	$15,000		$15,000

Miscellaneous Reimbursables	4440	$100,000		$100,000
Other Miscellaneous	5499	$328,991	$216,009	$545,000
Financial & Audit	5514	$23,000		$23,000
Other Professional Fees	5590	$10,000		$10,000
Building Rental	7010	$100		$100
Equipment Rental	7020	$50,000		$50,000
Telephones	7211	$100		$100
Cellular Phones	7213	$10,000		$10,000
Pagers	7214	$100		$100
Interest Payment	7520	$100		$100
General Liability	7541	$10,000		$10,000
Vehicles Insurance	7543	$10,000		$10,000
Indirect Costs	7960	$100		$100
TOTAL OPERATING		**$879,103**	**$267,509**	**$1,146,612**
HOUSING ASSISTANCE PAYMENTS (HAP)				
Incentives- Grants	2250	$150,000		$150,000
Rental Assistance - Long Term	5152	$55,288,862		$55,288,862
Rental Assistance - Portability	5155	$100		$100
Utilities Assistance	5180	$100		$100
Utilities Assistance - Emergen	5182	$700,000		$700,000
TOTAL HAP		**$56,139,062**	**$0**	**$56,139,062**
CAPITAL				
Building Improvements	8130	$100		$100
General Equipment	8418	$100		$100
TOTAL CAPITAL		**$200**	**$0**	**$200**
GRAND TOTAL		**$60,181,611**	**$1,230,084**	**$5,272,633**

Summary	
Total Admin	$5,272,633
Total HAP	$56,139,062
Total 8001 Set Up	**$61,411,695**

Total Award **$61,411,695**

*Expenditures are allocated based on documented time and effort.

H. Fraud Recovery [24 CFR 792.201 (Subpart B)]

If the HA determines that the family committed willful and intentional fraud, the HA will require the family to repay the entire amount in full or have assistance terminated. If the family's assistance is terminated and the repayment agreement has not been met, the money will still be owed and the HA will enter the names into the Enterprise Income Verification (EIV) system, under Debts Owed to PHA's and Terminations and provide a copy of the amount owed to Financial Administration.

Before taking action against a family for any perceived fraud, the HA will carefully review documentation and calculations to ensure there are no errors.

If the HA determines that there was no willful intent to defraud and/or the family willingly supplied information regarding a violation, the HA will enter into a Repayment Agreement with the family while the family remains a participant in the program.

1. Rescheduling Repayment Agreement

- The HA requires the family to pay the repayment agreement in full within two (2) years, but not to exceed five (5) years.
- If the financial status of a participant changes for the worse and the HA is notified, the HA will change the schedule of the repayment agreement.
- After three delinquent payments, the account will go into default and payment will be required, in full. If the family has defaulted on a previous repayment agreement, the HA may:

  a) Execute another Repayment Agreement combining all amounts owed.
  b) Require payment in full of all other outstanding debts prior to executing another Repayment Agreement.
  c) Require payment in full of all debts owed to the HA and process termination in addition to collecting the amounts owed.

- Determination regarding the execution of additional Repayment Agreements will be based on the family's history of repayment and willingness to satisfy the debt. The final decision is at the discretion of the Housing Agency.

2. Certification of Repayment Agreement, Deposits, and Requirements for Administrative Fee Retention

- HA staff will certify each case to determine if the participant intentionally committed fraud.
- The HA must be the principal party initiating the action to recovery funds from the family in order to retain any portion of the recovery.
- The HA may retain 50% of the fraud recovery amount, actually collected, less any HUD expenses related to the fraud recovery.
- A copy of the Repayment Agreement form, the HA's Recovery Report, and a cashier's check or money order will be submitted to Financial Administration at which point, the Financial Administration will determine the appropriate account.

3. Repayment agreement

- The monthly payment amount plus the amount of rent that the tenant pays should be affordable and not to exceed 40% of the monthly adjusted income. However, DCHA has the discretion to establish thresholds and policies for repayment agreement.
- The first payment will be due within 30 days of establishing the repayment agreement.
- Payments in the form of money order or cashier's check are to be made payable to Dallas County Department of Health and Human Services.
- Payments are to be mailed or submitted to the Dallas County Health and Human Service Section 8 Housing Division.

4. Accounting Treatment of Fraud Recovery

- Upon receipt of repayment agreement form HA, FA will create an accounts receivable for the amount of debt owed in the sub-ledger. The AR will be created by debiting AR (Account No. 12216) and crediting expenditure (Account No. 05152). Payments received from clients will be credited to AR.

I. HAP Disbursements

Housing Assistance Payments are processed pursuant to the HAP contract by and between the landlord/owner and HA. Monthly ongoing HAP will be disbursed on the first business day of each month. A notification of payment exceptions is provided to landlords at the Landlord Briefing and certification obtained from landlord (see copy of Landlord Briefing-Supplement Exhibit L). The following are instances that impact payments to landlords:

1. Overpayments

If HA determines that the owner is not entitled to the housing assistance payment or any part of it, HA may deduct the amount of the overpayment from any amount due the owner (including amount due under any other Section 8 assistance contract). Amounts adjusted or received from the landlord will be booked to the accounts receivable ledger. Typically, landlords will receive an overpayment notification with specific amounts to be repaid and a reason associated for the overpayment. The program has two ways to resolve the overpaid amounts as follows:

(a) for active landlords: HA will adjust the amount with the next payment issued, regardless of client for whom the housing assistance payment is intended for;

(b) for inactive landlords: HA will require immediate payback of the overpaid amount and failure to do so will result in the matter being referred to the district

attorney's office for further investigation and action. Payments received will be credited to account receivable. If, after due process, payment is deemed uncollectable and is still outstanding past one year then HA will recognize the amount as bad debt and necessary accounting entries to credit accounts receivable and debit bad debt account will be made.

2. Backup Withholding

Landlords are responsible for providing accurate information in the IRS W-9 form required for processing HAP payments. Based on Section 3406 of the Internal Revenue Code the Dallas County Auditors' Office (DCAO) is required to withhold a certain percentage (currently 28%, subject to change in the future) of the payments to landlords when landlords do not provide a correct Name/TIN combination on their W-9 form. Once the DCAO receives the notice from the IRS, they are required to disregard any future Name/TIN combination that the landlord furnishes and will require the landlords to obtain and send a Form SSA-7028 issued by the SSA office (for sole proprietors) or Letter 147C issued by the IRS (for non-sole proprietors). The backup withholding will continue to be in effect till the aforementioned documents are furnished to the DCAO.

3. Withholding for Tax Delinquent Landlords

Housing Assistance Payments to landlords that are delinquent in paying their Dallas County property taxes will have their rental subsidy payments withheld until such time as all affected tax accounts are brought current. All rental subsidies coming due for payment, and withheld hereunder, shall be applied to satisfy amounts due to Dallas County for outstanding property taxes. Once the landlord's property tax accounts are brought current, rental subsidy payments shall resume consistent with the contractual obligations pertaining to the underlying tenancy.

4. Homestead Exemptions

Landlords claiming homestead exemptions, on rental property, and not residing in that property, will be held liable for the offence. The matter may be reported to the central appraisal district for further action and the landlord may be subject to paying back an amount retroactive to when the violation first occurred. Landlords are therefore are strictly advised at the landlord briefing to adhere to the local tax laws when participating in this program.

J. Termination of HAP Contract Insufficient Funding [24 CFR 982.454]

The HA may terminate the HAP contract if the HA determines, in accordance with HUD requirement, that funding under the consolidated ACC (Annual Contribution Contract) is insufficient to support continued assistance for families in the program.

The HA must notify the HUD field office and its financial analyst at the Financial

Management Center (FMC) prior to termination actions due to insufficient funding. (Refer Exhibit O.)

When HA determines that the termination of HAP contracts are necessary due to funding shortfall, the HA will execute terminations immediately (within 45 days). Exhibit P will show the order until such time that the shortfall amount is addressed. (Refer Exhibit P.)

Section XII. Family Self Sufficiency Program Financial Management [24 CFR Part 984]

The HA establish and maintain an escrow account that accrues funds for participants of the FSS Program. The HA deposit the FSS account funds of all families participating in the program into a single depository account. The total of the combine FSS account funds is supported in the HA accounting records by a subsidiary ledger showing the balance applicable to each FSS family. During the term of the contract of participation the HA credits the applicable portion of the families rent to the escrow account on a monthly basis.

The FSS Coordinator submits monthly escrow balance of all family's participating in the program to Financial Administration. The escrow subsidiary ledger is updated and the investment income is calculated (based on the rate provided by the Dallas County Treasurer's Office) by finance clerk to credit to each family's FSS account. The subsidiary ledger is then reviewed by the Grants Management Officer and sent to the Auditor's Office with the Journal Voucher request for their review and transfer of funds to the FSS escrow account. Statements containing the cumulative FSS contribution amounts, including interest earned on the amount are issued to each participant on an annual basis.

The amount of a participant's FSS accrued funds is disbursed upon completion of program objectives. The amount in an FSS account, in excess of any amount owed to the HA by the FSS family is paid to the head of the FSS family when the contract of participation is completed. Before the final disbursement, the FSS family submits to the HA a certification, certifying to the best of his/her knowledge and belief that no member of the FSS family is a recipient of welfare assistance. Welfare assistance, for the FSS program, means income assistance from Federal or state welfare programs, and includes only cash maintenance payments designed to meet a family's ongoing basic needs. If the HA determines that the FSS family has fulfilled its obligations under the contract of participation before the expiration of the contract term, and the head of the FSS family submits a certification that, to the best of his/her knowledge, no member of the FSS family is a recipient of welfare assistance, the amount in the family's FSS account, in excess of any amount owed to the HA by the FSS family is paid to the head of the FSS family.

The FSS Coordinator prepares the final disbursement request memo and submits it to Financial Administration along with Escrow Statement and Verification of Family Certification for processing. The Financial Administration clerk prepares request for payments that is reviewed by Grants Management Officer and approved by Assistant Director of Finance,

Budget and Contracts. The approved request for payment with escrow sub-ledger is then sent to the Auditor's Office for payment to be generated. FSS funds in a participants account may be forfeited if the HA determines that the "Contract of Participation" is violated in any manner or terminated due to reasons specified in the contract. Forfeited FSS funds are treated as program receipts and credited to the housing assistance payment budget.

Section XIII. Section 8 Home Ownership Program

Introduction

The American dream of home ownership has become a reality for many low and moderate income families in Dallas County for more than a decade thanks to innovative housing initiatives by Dallas County Commissioners Court. In 1989 the Commissioners established the Dallas County Home Loan Counseling Center (DCHLCC) to provide first-time home buyer home ownership counseling and education programs for low to moderate income buyers. Expanded home ownership opportunities came with the addition of the Upfront Cost Assistance Program (UPCAP) in 1992 which provides HOME and County Bond Refunding Proceeds funds for down payment and closing costs assistance. Since FY1992, Dallas County UPCAP has made homeownership a reality for 1,339 low and moderate income buyers as a result of direct loans using these funds.

It is the goal of the Section 8 Homeownership Program to expand home ownership opportunities for Dallas County's Section 8 participants by assisting them in transitioning from rental assistance to home ownership through utilization of Section 8 housing choice vouchers. Homeownership assistance offers families currently receiving Section 8 tenant-based assistance from Dallas County a new and special housing option. Section 8 participants who are interested in homeownership and meet the Dallas County/HUD program guidelines are eligible to apply for this program.

Dallas County has the capacity to operate a successful Section 8 Homeownership Program based on its track record in home ownership programs since 1989. Dallas County Home Loan Counseling Center has, over the past 26 years of administration of home ownership programs, had extensive experience in working with all segments of the home mortgage arena; mortgage lenders, realtors, low income buyers, secondary mortgage markets and not for profit auxiliary home ownership programs. Also, the DCHLCC's knowledge of the real estate market can help ensure that families are exposed to housing choices in a range of neighborhoods.

Dallas County has operated a Section 8 rental assistance program since 1994 when it began with 27 Section 8 certificates. Today the successful Section 8 program operates, along with the DCHLCC, under the auspices of the County's Health and Human Services Department and administers 3710 Section 8 rental vouchers over 3,000 families. While distinctly different in goals, having both the Section 8 and DCHLCC programs operating under the same department can make the Section 8 Homeownership Program successful

as all functions of implementation of the program can be completed in-house. The Section 8 program will play a crucial role in referring eligible clients to the DCHLCC for participation in the Section 8 Homeownership Program. Over 37% of current Section 8 rental assistance families are currently employed. That could represent a potential base of persons interested in home ownership.

The ability to use Section 8 housing voucher assistance should prove to be a key resource in purchasing a home for low income persons. Buying ones home is never easy, especially for families of limited means. The scarcity of affordable homes, interfacing with realtors, the mortgage loan process, credit checks, and information gathering, among other factors in the home buying process can be intimidating for low income first-time purchasers. However, with the financial assistance available with the Section 8 Homeownership vouchers, education and counseling, and working closely with realtors and lenders to streamline the home purchase process, this program can be successful.

The Section 8 Homeownership Program Administrative Plan is herein amended December 2015. Since approval of the Program in FY02, 95 Dallas County Section 8 Rental Voucher tenants have purchased homes. There has been one mortgage foreclosure to date.

Overview of Section 8 Homeownership Program

The goal of the Section 8 Homeownership Program is to expand home ownership opportunities for families who are currently receiving County Section 8 rental voucher assistance and are interested in, and capable of, purchasing their own homes by assisting them in transitioning from rental to home ownership using Section 8 rental assistance. This program is completely voluntary and provides participants freedom of choice.

This section of Dallas County's Section 8 Homeownership administrative plan gives an overview of County and HUD policies regarding this program. The details regarding the operations of the program are provided elsewhere in this plan. If something is not specifically mentioned in this section of the plan, then HUD/Dallas County Section 8 regulations and policies and Dallas County's Section 8 Administrative Plan for rental assistance prevail. This Dallas County Section 8 Homeownership Administrative Plan reflects all applicable HUD final rules and instructions as of July 29, 2005 governing the program (24 CFR 982.625)

PHA administration of the Section 8 Homeownership Program differs from the tenant-based rental program in many ways. Dallas County will use the voucher program funding already under Annual Contributions Contract (ACC) or new tenant-based Section 8 funding for rental or homeownership purposes. The program will limit funding to no more than 5% of Section 8 housing choice vouchers being converted to Section 8 Homeownership in any given fiscal year. There is no separate or additional funding for the homeownership program. Dallas County Housing Program has demonstrated capacity to operate a successful Section 8 Homeownership Program by establishing in it's Administrative Plan (1) a minimum home owner down payment requirement with at

least the greater of 1% of purchase price or $985 coming from the home owners funds; (2) that mortgage financing for purchase of a home comply with FHA or conventional mortgage's secondary market underwriting requirements: and (3) has a proven track record in operating both successful home ownership and Section 8 rental assistance programs.

Interested participating Section 8 rental assisted families will be told of the Section 8 Homeownership Program availability at the regularly scheduled Section 8 briefings. Family participation is voluntary. Interested families are referred to the DCHLCC to begin the process of qualifying to become home owners. Once the DCHLCC has established eligibility, the family begins home ownership counseling sessions. All program eligibility criteria is explained to the family. After lender pre-approval, the family has 60 days to find a home to purchase and execute a real estate sales contract. If the family is unable to locate a home to purchase in that time period, they may remain in the Section 8 rental program and reapply at a later date to the homeownership program.

The home selected for purchase may be a property under construction or an already existing property. The home chosen by the family must pass both an in-house Housing Quality Standards (~~**HQS**~~ **NSPIRE**) and a Minimum Property Standards (MPS) property inspection performed by an independent professional home inspector. Any pre-purchase repairs necessary will be determined by the inspection reports. The home buyer will execute a real estate contract and apply for mortgage financing. There is no prohibition against using local or state CDBG or other subsidized financing with the homeownership program. The lender may consider the Section 8 assistance when underwriting the loan. The monthly homeownership assistance payment (HAP) check will be sent by Dallas County to the homeowner with the check jointly made out to the homeowner and the lender. The homeowner will endorse the HAP check and send it along with their portion of the mortgage directly to the lender.

Before assistance payments can begin, the family and Dallas County Housing Program will execute a Astatement of homeownership obligations@. The homeownership housing assistance payment will equal the lower of (1) the payment standard minus the total tenant payment, or (2) the family's homeownership monthly expenses minus the total tenant payment. The family is responsible for the monthly homeownership expenses not reimbursed by the housing assistance payment. The DCHLCC will use the utility allowance schedule applicable to the Section 8 Rental Voucher Program, utilizing the homeowner's Bedroom count to determine utility credit. After the homeownership housing assistance payments begin, the PHA will annually re-examine family income and composition for continued eligibility and make any appropriate adjustments to the amount of the monthly assistance payment.

Except for elderly or disabled families, Section 8 Homeownership assistance is for a

maximum of 15 years (for mortgages longer than 20 years) and 10 years for mortgages with shorter terms.

If the family defaults on the mortgage debt or does not fulfill its family obligations per the signed agreement with Dallas County Housing Program at time of loan closing, the family will not be allowed back in the Section 8 rental or Section 8 homeownership program.

Qualifications for Homeownership Assistance

Families must meet the general requirements for admission to the Section 8 housing choice voucher program as set forth in the Dallas County Section 8 Administrative Plan. Participation in the Section 8 Homeownership Program is voluntary on the part of the client. The additional eligibility requirements for the Section 8 Homeownership Program include that the family must: (1) be a first-time home buyer or have a member who is a

person with disabilities; (2) have a minimum gross annual income of the current federal minimum wage times 2000 hours annually (except for elderly and disabled households) and a maximum gross annual income not to exceed 80% of the HUD median of family size currently used by Dallas County Housing Program; (3) or, if a family with a disabled member, a minimum income of the monthly SSI benefit for an individual living alone (or paying his or her share of food and housing costs) multiplied by twelve (12) ; (4) be currently receiving County Section 8 rental voucher assistance; (5) have fully repaid any outstanding debt owed to Dallas County, landlord, or any other housing authority; (6) not defaulted on a mortgage securing debt to purchase a home under the home ownership option; (7) not have any member in household who has a present home ownership interest in a residence at the start of home ownership assistance; (8) not have available in savings or other liquid assets 10% or more of the sales price to put toward purchase; (9) be credit worthy and able to qualify for a mortgage loan at market rate with maximum housing ratios not to exceed 35% and debt ratios not to exceed 43%.; and (10) budget shows residual income greater than zero. Residual income is the balance remaining when monthly expenses are subtracted from net monthly income.

A first-time home owner, except for families with a disabled member, is a household in which no member has an ownership interest in any residence during the three years preceding commencement of home ownership assistance, However, a single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse) is considered a Afirst-time home owner@ for purposes of the Section 8 Homeownership Program.

With the exception of disabled and elderly households, each family must demonstrate that one or more adult members of the family who will own the home at commencement of home ownership assistance, is employed full-time (an average of 30 hours per week), and has been so continuously employed for one year prior to execution of the sales agreement. To what extent an employment interruption, job changes, job training, and other employment circumstances effect the employment requirement will be considered by the program administrator.

Homeownership Counseling

In addition to DCHLCC initial briefing meetings, families must complete the DCHLCC's

8-hour Homebuyer education seminar to receive assistance. This will be conducted by the DCHLCC which is a HUD approved counseling agency. This pre-purchase home ownership education will cover topics of home maintenance, budgeting and money management, credit counseling, negotiating purchase price, securing mortgage

financing, selecting a home to purchase, fair housing law, predatory lending issues, RESPA obligations, with additional topics being added as the need arises. Counseling will be conducted in group and individual setting. Post-purchase counseling will be required after the family has purchased a home and will include, among other topics, budget and credit counseling and home maintenance issues. Foreclosure counseling will be required should the family experience mortgage delinquency.

Real Estate Contracts of Sale and Financing

After approval for the Section 8 Homeownership Program, a family will have 60 days to locate a home to purchase, execute a real estate contract and submit the contract to Dallas County Housing Program. For good cause, Dallas County Housing Program may extend a family's time to locate a home for an additional 30 days. If the family is unable to find a home to purchase in this time frame, their Section 8 rental assistance through the Section 8 Housing Choice Voucher Program shall continue.

A family may choose a new or existing home, condominium, a home in a PUD, or a townhouse within Dallas County to purchase. If choosing new construction, the home must be under construction and the foundation laid at the time the real estate contract is written and the construction completed by time of loan closing by the family. No custom built new construction is eligible for purchase. Properties built prior to January 1, 1978 are eligible for purchase.

After execution of the real estate contract and the family's application for mortgage financing, the family shall close within thirty (30) days. If not closed within this time period, one (1) extension of thirty (30) days may be approved. If the family is unable to purchase the home within this time frame, Dallas County Housing Program will continue the family's participation in the Section 8 rental assistance program.

The sales contract must provide for inspections of the property that are satisfactory to Dallas County Housing Program the family, and to CFR 5, Section 982. The sales contract must also contain a seller certification that the seller is not debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. The seller will supply the buyer with a one year home warranty on the purchased home. The home buyer is encouraged to renew this warranty each year. Dallas County Housing ,

in its administrative discretion, may deny approval of a seller for any reason provided for

disapproval of an owner under the voucher rental program regulations.

It is the responsibility of the family to find its own Realtor for the purpose of finding a home to purchase. However, DCHLCC will make available a list of interested Realtors to assist families in the home purchase process.

Financing

Dallas County Housing Program will determine the affordability of the family's proposed financing. Mortgage loans must be fixed rate loans, no balloon loans, ARM loans, zero down program, interest only, or 80/20 loans are eligible. Mortgage loans must be secured from an acceptable lending institution and can be FHA, VA, or conventional in nature. No seller financing is allowed. If a mortgage is not FHA insured, Dallas County Housing Program will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/FHA, Ginnie Mae, Fannie Mae, Freddie Mac, or the Federal Home Loan Bank, or other private lending institution.

Lenders may consider public assistance, employment or other income allowed in the Section 8 rental assistance program as income when qualifying for the Section 8 Homeownership Program. The lenders may consider these sources of income when qualifying a family for a house payment. However, Section 8 housing assistance may be used as a direct reduction or a buy down of the house payment and not as a source of income. The family would then qualify on the remaining payment after the Section 8 is applied. By underwriting this way, the family will have other sources of income for other bills, living expenses and the amount of the remaining mortgage payment after the Section 8 assistance reduction has been applied.

It is the responsibility of the family to secure its own financing for the home purchase from a lender. A family may choose any lender it wishes, however, DCHLCC will make available a list of qualified lenders to assist families in obtaining financing and this list will be available to the families.

Dallas County Housing Program requires a minimum home buyer down-payment of 3% of the purchase price for participation in its Section 8 Homeownership Program and requires that at least 1% or $985.00, whichever is more, come from the families personal resources. The remaining funds needed for down-payment and closing costs can come from seller, lender, CDBG, or other first-time home buyer programs contribution, or any source approved under FHA guidelines. DCHLCC will work closely with non-profit and secondary mortgage markets advancing the cause of home ownership for people with disabilities.

At all times, DCHLCC has the discretion to disapprove financing terms it determines would make the debt for the purchase of the home unaffordable for the family. No co-signers are allowed under the program, except for persons with disabilities.

Home Inspections
An in-house Housing Quality Standards (~~**HQS**~~ **NSPIRE**) inspection and an independent professional home inspection are required prior to purchase of the home. The ~~**HQS**~~ **NSPIRE** will be performed by an inspector on the County's Section 8 housing staff. If, upon inspection, lead-based paint is found to be present, the seller is to be notified that the lead-based paint situation exists and must be cleared, and the seller will be given an estimated cost to complete this. The family nor Dallas County Housing Program is

responsible for this cost. If the property passes the initial ~~**HQS**~~ **NSPIRE** inspection, the family proceeds with ordering and paying for a private home inspection company to perform a separate home inspection that includes a TREC. The purpose of the ~~**HQS**~~ **NSPIRE** inspection is to indicate that the unit is safe and otherwise inhabitable. The family must provide a copy of the private market home inspection to Dallas County Housing Program immediately after this inspection is performed. The home inspection company must be licensed by the State of Texas and approved by Dallas County Housing Program. Dallas County Housing Program reviews the inspection results and can deny assistance under the homeownership program due to the existence of major physical problems and substantial correction costs. The independent inspection must be selected and paid for by the family.

Homeownership Assistance Payments
While the family is residing in the home, Dallas County Housing Program will pay a monthly homeownership assistance payment on behalf of the family that is equal to the LOWER of:

The payment standard minus the total tenant payments, or
The family's monthly homeownership expenses minus the total tenant payment.
A. Section VIII, page 9
The payment standard for the family is the LOWER of:
The payment standard for the family unit size, or
The payment standard for the size of the home.

If the home is located in an exception payment standard area, Dallas County Housing Program must use the appropriate payment standard for the exception payment standard area.

The payment standard for subsequent years will be based on the HIGHER of:

The payment standard at the commencement of homeownership assistance, or
The payment standard in effect at the most recent re-examination of family income and size.

Dallas County Housing Program will use the same payment standard schedule, payment standard amounts, and subsidy standards for the homeownership option as for the rental voucher program.

Before commencement of Section 8 Homeownership Assistance, the family must execute

a statement of family obligations in the form prescribed by HUD. A family must agree in writing, to comply with all family obligations under the Section 8 Homeownership Program. These include (1) attending ongoing homeownership counseling as required by Dallas County Housing Program; (2) complying with the mortgage terms; (3) not selling or transferring the home to anyone without permission from Dallas County Housing Program; (4) not refinancing or adding debt secured by the home without prior approval from Dallas County Housing Program; (5) not obtaining a

present ownership interest in another residence while receiving homeownership assistance; and (6) supplying all required information to Dallas County Housing Program, including but not limited to annual verification of household income, notice of change in homeownership expenses, notice of move-out, and notice of mortgage default; (7) must file a Texas Residential Homestead Exemption on their property.
The home must pass both an ~~**HQS**~~ **NSPIRE** inspection as well as an independent property inspection prior to commencement of any homeownership assistance payments.

Upon purchase of a home, the family must execute documentation as required by HUD and Dallas County Housing Program, consistent with State and local law. In order to prevent a default on mortgage payments, the Section 8 home buyer must sign a release of information form allowing Dallas County Housing Program to exchange information

on the participants mortgage status with any necessary parties involved with the home owners mortgage.

The County HAP Payment each month will be in the form of a dual party check made out to the lender and the home owner and mailed to the home owner who will then send the HAP check along with their homeowner portion of the mortgage payment to the lender.

Staff may monitor lender escrow account monthly. There is a minimum $50 per month home owner contribution toward the mortgage.

If the home buyer is no longer eligible to receive Section 8 Homeownership Assistance, the home buyer is responsible for the entire mortgage payment to the lender.

Determination of Homeownership Expenses
Dallas County Housing Program will use the same utility allowance and payment standard schedule as is applicable to the Section 8 rental voucher program. Homeownership expenses for a homebuyer may only include amounts allowed by Dallas County Housing Program to cover the following:

(1) Principal and interest on initial mortgage debt and any MIP or PIM incurred to finance purchase of the home and any refinancing of such debt.
(2) Real estate taxes and public assessments on the home insurance.

The PHA allowance for maintenance expenses.
The PHA allowance for costs of major repairs and replacements.
The PHA utility allowance for the home

Principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home.
If the home is a condo or townhome unit, expenses may also include condo/townhome monthly individual unit operating charges or maintenance fees assessed by the condo/townhome association.

Maximum Term of Homeownership Assistance
Dallas County Housing Program will annually re-examine family income and composition and make appropriate adjustments to the amount of monthly homeownership assistance provided. The maximum terms for Section 8 Homeownership assistance is fifteen (15) years for mortgages of 20 years or more and ten (10) years for all other mortgages. There is no term limitation for elderly families or families with disabilities. In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a family with disabilities, the exception applies if at any time during the receipt of homeownership assistance the family qualifies as a disabled family. If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least six (6) months of homeownership assistance after the maximum term becomes applicable

(provided the family is otherwise eligible to receive homeownership assistance).Assistance automatically terminates 180 calendar days after the last housing assistance payment on behalf of the family.

If the family receives homeownership assistance for different homes or from different PHA's the total of assistance term is subject to the regulatory maximum term (15 or 10 years, depending on the length of the initial mortgage to purchase the first unit under the homeownership option).

Continued Assistance Requirements
Homeownership assistance will only be paid while the family is residing in the home. If the family moves out of the home, Dallas County Housing Program will not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to Dallas County Housing Program the homeownership assistance for the month when the family moves out.

In order to continue to receive homeownership assistance the family must (1) comply with any ongoing homeownership counseling requirements by Dallas County Housing Program; (2) comply with the terms of any mortgage securing debt incurred to purchase the home (or any refinancing of such debt); (3) cannot sell or transfer ownership of the property without the express written permission of Dallas County Housing Program.

Upon death of a family member who holds, in whole or in part, title to the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members.

The family must supply any required information to Dallas County Housing Program in accordance with the Administrative Plan as well as any additional requirements Dallas County Housing Program may establish for continuation of homeownership assistance for the family.

The family will be required to have annual re-examinations of family income and family composition to determine homeownership assistance as long as this assistance is being received.
The family may refinance the home to obtain a more favorable interest rate or term, subject to approval by Dallas County Housing Program. During the time the family receives homeownership assistance under this program, no family member may have any ownership interest in any other residential property.

Dallas County Housing Program may deny the family continued participation in the Section 8 Homeownership Program as well as readmission to the Section 8 rental voucher program if the family defaults on the mortgage terms and or the family obligations Dallas County Housing Program has established for the Section 8 Homeownership Program. The family may request an informal hearing if a current participant that has defaulted on a mortgage for a Section 8 Homeownership unit is denied a rental voucher.

Adult family members are expected to remain continuously employed, full time, during the entire period of time that homeownership voucher assistance is provided. Definition of full time employment is not less than an average of 30 hours per week [24 CFR 982.627 (d) (i)]. The income of adult family members who are self-employed must equal to at least 30 hours per week at current hourly minimum wage. A maximum six (6) month grace period may be extended to participants with approval of the Dallas County Housing Program, however, periods of full-time unemployment greater than six (6) months continuously, may result in loss of benefits and participation in the program, at the discretion of the Dallas County Housing Program. The Dallas County Housing Program maintains the right to deny more than three (3) six month grace periods per family over the life of the entire mortgage period. [24 CR 982.633(8)]

The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the Dallas County Housing Program must grant an exemption from the employment requirement if the Dallas County Housing Program determines that it is needed as a reasonable accommodation.

Portability
A family who is eligible for homeownership assistance with Dallas County Housing Program may purchase a home outside Dallas County Housing Program's jurisdiction

provided that the receiving PHA is administering a homeownership program and is accepting new Section 8 Homeownership families.

The family must attend the briefing and counseling sessions required by the receiving PHA.

The receiving PHA will determine whether the financing for , and the physical condition of the unit are acceptable.

The receiving PHA must immediately notify Dallas County Housing Program if the family has purchased a home within the maximum time established by the PHA.

Recapture of Homeownership Assistance
Dallas County Housing shall not impose or enforce any requirement of the recapture of voucher homeownership assistance on the sale or refinancing of a home purchased with assistance under the homeownership option.

Move With Continued Tenant-based Assistance
A family may move with continued tenant based homeownership assistance or rental voucher assistance if they have fulfilled all of their homebuyer obligations specified in the Dallas County Housing Program policies governing this program. Dallas County Housing Program will not commence continued tenant-based assistance for occupancy of a new unit as long as any family member owns any title or other interest in the prior home.

Dallas County Housing Program will not allow more than one move by the family during any one year period. Dallas County Housing Program may deny permission for the family to move based on unfulfilled obligations, affordability, or any other issues that violate this homeownership rule. Permission to move will also be denied if Dallas County Housing Program determines that it does not have sufficient funding to provide continued assistance.

Administrative Fees
HUD does not provide any additional or separate funding for homeownership assistance under this program. The ongoing Section 8 administrative fee that is paid to Dallas County Housing Program for the Section 8 rental voucher program is paid to Dallas County Housing Program each month that homeownership assistance is paid by Dallas County Housing Program on behalf of the family.

Applicability of Other Requirements
All Fair Housing and Civil Rights laws applicable to the Section 8 rental voucher program will be applicable to the Section 8 Homeownership Program.

All federal applicable property standards, environmental regulations, relocation, and lead-based paint requirements applicable to the Section 8 Homeownership Program will be met.

Dallas County Section 8 Homeownership Program: DCHLCC Operational Flow Chart

Section 8

Information is given on the Section 8 Homeownership Program option during all regular Section 8 tenant briefings conducted by Section 8.

Notices are posted in the Section 8 office notifying tenants of availability of homeownership program.

Section 8 counselors advise tenants, at time of re-examination of income, of the availability of homeownership program.

All interested Section 8 tenants who meet the minimum requirements (employed at least one year at required program minimum income and currently on the Section 8 rental program) will be referred to the Family FSS coordinator for referral to the DCHLCC's Section 8 Homeownership Housing Counselor.

Home Loan Counseling Center

DCHLCC counselor will conduct regular group briefings for interested Section 8 tenants referred by Section 8 rental program.
Interested family will complete pre-qualifying and income/asset/obligations forms and provide a copy of their credit report to the DCHLCC counselor.

Counselor reviews submitted forms to determine Dallas County eligibility.

Counselor refers family to lender for mortgage pre-approval based on lender's criteria/underwriting.

Lender notifies counselor of tenant's eligibility for a mortgage. DCHLCC approves mortgage offering.

Tenant takes required pre-purchase home buyer education classes and individual home buyer counseling provided by DCHLCC.

Tenant is issued a 60-day approval letter to begin the home purchase process.

Counselor gives tenant a list of Realtors who have attended DCHLCC meetings and are familiar with the Section 8 Homeownership Program and also informs tenants that they are free to choose any Realtor they would like.

Tenant works with Realtor and DCHLCC to search for a home to purchase.

Tenant finds home to purchase and submits a real estate contract.

DCHLCC approves real estate contract and advises tenant to proceed with ~~**HQS**~~ **NSPIRE** inspection and private market inspection.
~~**HQS**~~ **NSPIRE** inspection is completed by Section 8 inspector. Copy sent to DCHLCC for review/approval.

If ~~**HQS**~~ **NSPIRE** inspection unit passes and unit is approved by DCHLCC, tenant is instructed to proceed with getting an independent property inspection. Copy of inspection immediately sent to DCHLCC for approval.

If inspection contains repairs to be made, DCHLCC will work with Realtor and seller to make sure that seller makes all required repairs.

DCHLCC finalizes all client paperwork, including all allowances under the program and sends to lender final payment standard calculation.

DCHLCC conducts pre-closing counseling with tenant to go over all figures and costs associated with the home purchase.

Lender submits good faith estimate to DCHLCC for review/approval.

Property inspection finals conducted prior to closing.

Title Company sends final closing statement (HUD-1) to DCHLCC for review/approval.

DCHLCC coordinates any/all funds for down payment and closing costs assistance for tenant to prepare for closing.

DCHLCC housing coordinator accompanies tenant to mortgage closing at Title Company.

Tenant closes on home.

County Section 8 Rental Voucher program is notified of client's home purchase.

New PIC report is entered into the system.

Homebuyer begins mortgage payments.

Section XIV. Expanding Housing Opportunities Through Mobility Counseling

Expanding Housing Opportunities [24 CFR 985.3 (g)]

(1) This indicator applies only to PHAs with jurisdiction in metropolitan FMR areas. The indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs rental voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration. (24 CFR 982.54(d)(5), 982.301(a) and 982.301(b)(4) and 982.301(b)(12))

(2) HUD verification method: The IA annual audit report covering the PHA fiscal year entered on the SEMAP certification and on-site confirmatory review if performed.

(3) Rating: (i) The PHA's SEMAP certification states that:

(A) The PHA has a written policy in its administrative plan which includes actions the PHA will take to encourage participation by owners of units located outside areas of poverty or minority concentration, and which clearly delineates areas in its jurisdiction that the PHA considers areas of poverty or minority concentration;

(B) PHA documentation shows that the PHA has taken actions indicated in its written policy to encourage participation by owners of units located outside areas of poverty or minority concentration;

(C) The PHA has prepared maps that show various areas with housing opportunities outside areas of poverty or minority concentration both within its jurisdiction and neighboring its jurisdiction; has assembled information about the characteristics of those areas which may include information about job opportunities, schools, transportation and other services in these areas; and can demonstrate that it uses the maps and area characteristics information when briefing rental voucher holders about the full range of areas where they may look for housing;

(D) The PHA's information packet for rental voucher holders contains either a list of owners who are willing to lease (or properties available for lease) under the rental voucher program; or a current list of other organizations that will help families find units and the PHA can demonstrate that the list(s) includes properties or organizations that operate outside areas of poverty or minority concentration;

(E) The PHA's information packet includes an explanation of how portability works and includes a list of portability contact persons for neighboring housing agencies, with the name, address

and telephone number of each, for use by families who move under portability; and

(F) PHA documentation shows that the PHA has analyzed whether rental voucher holders have experienced difficulties in finding housing outside areas of poverty or minority concentration

and, if such difficulties have been found, PHA documentation shows that the PHA has analyzed whether it is appropriate to seek approval of exception payment standard amounts in any part of its jurisdiction and has sought HUD approval of exception payment standard amounts when necessary.

The HA is committed to providing its housing participants with the broadest possible range of housing choices. Actions to be taken will include:

1. Providing a thorough explanation to voucher holders of where they can move, using maps showing the various areas in and outside of HA's jurisdiction, and the location of key facilities and services. Discussing the advantages of living outside areas of low-income concentration; [24 CFR 985.3 g.(3)(C)].

2. Providing a thorough explanation of portability under the Housing program, and including in the packet a listing of the names and phone numbers of contact persons at neighboring housing authorities; [24 CFR 985.3 g.(3)(E)].

3. Providing a voucher holders and participants who wish to move with listings of units throughout Dallas County currently available for housing participants, and of owners and organizations operating outside of areas of low-income concentration; [24 CFR 985.3 g.(3)(B) & [24 CFR 985.3 g.(3)(D].

4. Recruiting landlords in neighborhoods of the county where there are low concentrations of minorities and persons of low income; [24 CFR 985.3 g.(3)(A)].

5. Evaluating the need for, and seeking HUD approval if necessary for, payment standards exceeding 110% of the published Fair Market Rent for areas with lower concentrations of low-income families (applying for sub-market fair market rents); [24 CFR 985.3 g.(3)(F)].

6. Conducting outreach to owners of rental housing in Dallas County and surrounding jurisdictions in areas with lower concentrations of low-income families. Outreach efforts will include periodic advertisements in the newspaper of general circulation, semi-annual meetings with current and potential owners, and the distribution to owners of informational materials about the Housing program. [24 CFR 985.3 g.(3)(A)].

Section XV. Resident Advisory Board

On May 4, 2004, Dallas County Commissioners Court approved the development of the Resident Advisory Board as per U.S. Department Housing and Urban Development Code of Federal Regulations, to participate only in the development of the HA Plan on an annual basis. The Resident Advisory Board will

present its recommendation(s) on the Administrative Plan to the HA and the HA will submit these recommendation(s) to the Dallas County Commissioners Court for final approval

(Housing Choice Voucher Program Guidebook 3-8).

Section XVI. Disposition of Property (equipment and furniture over $5,000)

The HA will adhere to Dallas County management guidelines of personal property disposition policy in the event of disposing of excess and obsolete furniture and equipment.

Section XVII. Affirmatively Furthering Fair Housing

The U.S. Department of Housing and Urban Development (HUD) has just released the new Affirmatively Furthering Fair Housing-Final Rule. Dallas County Housing Agency (DCHA) will work to affirmatively further fair housing and to remove impediments to housing choice by members of protected classes. DCHA will update the administrative plan once HUD approves all documents concerning the new Affirmatively Furthering Fair Housing-Final Rule.

Section XVIII. Confidentiality

HUD Privacy Protection Guidance for Third Parties

Dallas County Housing Agency (DCHA) will take actions to safeguard personal identifiable information of program participants in order to prevent potential breaches of sensitive data as required by U. S. Department of Housing and Urban Development (HUD . (See PIH Notice 2015-06 & PIH Notice 2010-15, Exhibit W.)

Section XIX. Displacement Due to Disaster

Dallas County Housing Agency's (DCHA) policy is to assist displaced individuals/family with vouchers who are already on the Housing Choice Voucher Program. Displaced person – One who is displaced by governmental action, or one whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal Disaster Relief Laws.

Section XX. Limited English Proficiency (LEP)

Limited English Proficiency (LEP). Language can be a barrier to accessing important benefits or services provided by the Housing Choice Voucher (HCV) Program. Therefore, Dallas County Housing Agency (DCHA) will take affirmative steps to communicate with clients in languages other than English. The client will be referred to as "Person with Limited English Proficiency". To assist a client with Limited English Proficiency, DCHS will use language identification flashcards to identify the client's language. Staff with

multi-lingual abilities will be available for interpreting. Various translation services will be provided as needed.

Section XXI. Definitions

Absorption - In portability, 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.

Abatement - Stopping HAP payments to an owner with no potential for retroactive payment.

Administrative fee - Fee paid by HUD to the PHA for administration of the program. See Sec. 982.152.

Administrative fee reserve (formerly ``operating reserve'') - Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See Sec. 982.155.

Administrative plan - A document that describes the HA policies for administration of the tenant-based program.

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.

Applicant (applicant family) - A family that has applied for admission to a program, but is not yet a participant in the program

Authorized voucher units - The number of units for which a PHA is authorized to make assistance payments to owners under its annual contributions contract.

Building - A structure with a roof and walls that contains one or more dwelling units.

Child Care Expenses (HOTMA) - Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen - Citizen/national of the United States.
Common Law Marriage – also known as marriage without formalities or informal marriage is a valid and legal way for a couple to marry in Texas. Texas law states that a common law marriage may be proved by evidence that:
Both parties must mutually agree that they are married. You cannot marry someone else without his or her consent.

Both parties must tell other people that they are married. You can demonstrate this by, for example, introducing the other party as your spouse, co-signing leases as a married couple, or filing joint tax returns or credit card applications as spouses.
The parties must live together in Texas as husband and wife. If for example, the parties acted as husband and wife in another state but did not present themselves as married to people in Texas, then the parties are not eligible for informal marriage in Texas.
Declaration of Informal Marriage. If you and your spouse satisfy the following criteria, then together you can sign a Declaration of Informal Marriage with the county clerk. Once signed and submitted, the declaration is a valid proof of marriage and you are considered married for all legal purposes.

Contiguous MSA - In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial HA is located

Continuously assisted - An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Dating violence – Violence committed by a person: (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship: and (iii) the frequency of the interaction between the person involved in the relationship.

Day Laborer (HOTMA) - Regulation: 24 CFR § 5.603(b)
A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.
Income earned as a day laborer is not considered nonrecurring income under 24 CFR § 5.609(b)(24) (Nonrecurring Income) of this notice) and must be included, unless specifically excluded in 24 CFR § 5.609(b) (e.g., earnings of full-time students in excess of the dependent deduction (24 CFR §§ 5.609(b)(3), (b)(14), etc.).

Dependent (HOTMA) - under § 5.603 was revised to explicitly exclude foster children and foster adults. PHAs/MFH Owners may not provide a dependent deduction under § 5.611(a) for a foster child or foster adult. Consistent with the determination that foster adults/children are not family members, income earned by foster adults/children, payments received for the care of foster adults/children, and expenses incurred related to foster adults/children are not considered to be family income or family expenses used in the determination of annual income. A member of the family(which excludes foster children and foster adults) other than the family head or spouse who is under 18 years of age, or is a person with a disability, or is a full-time student

Different Generations – Different generations are defined as “family members from different eras” (i.e., grandparents / parents; parents / children, etc.) (New York State of Opportunity Homes and Community Renewal Section 8 Administrative plan)

Disabled person – One who is under a disability as specified in Section 223 of the Social Security Act (42 U.S.C. 423) or in Section 102(b)(5) of the Developmental Disabilities Services and Facilities construction Amendments of 1970 (42 U.S.C. 6001(7)).

Disabled family – A family whose head, spouse, or sole member is a person with disabilities.

Displaced person – One who is displaced by governmental action, or one whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal Disaster Relief Laws.

Drug-related criminal activity – Term means: (1) Drug-trafficking; or (2) Illegal use, or possession for personal use, or a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-trafficking- The illegal manufacture, sale or distribution, or the possession with intent to manufacture, sell or distribute, or a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Domicile - The legal residence of the household head or spouse as determined in accordance with State and local law.

Domestic violence – Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Earned Income (HOTMA) - Regulation**:** 24 CFR § 5.100
Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

Elderly person - A person who is at least 62 years of age.

Extremely Low-Income (ELI) – Appropriations Act amends section 3 of the 1937 Act. ELI families are defined as very low-income families whose income does not exceed the higher of the Federal poverty level or 30 percent of Area Median Income.

Fair Market Rent (FMR)- The rent including the cost of utilities (except for 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. FMR for existing housing are established by HUD for housing units of varying sizes (number of bedrooms), and are published in the **Federal Register** in accordance with 24 CFR part 888

Fair Market Rent (FMR)(HOTMA) – The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. *In the HCV program, the FMR may be established at the ZIP code level (see definition of Small Area Fair Market Rents), metropolitan area level, or non-metropolitan county level.*

Family (HOTMA)- Regulation: 24 CFR § 5.403 - The final rule revises the definition of family to also include a single person who:

- Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
- Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
- Is homeless or is at risk of becoming homeless at age 16 or older.

The definition of "family" in the final rule incorporates revisions made to the 1937 Act by the Fostering Stable Housing Opportunities provisions of the Consolidated Appropriations Act, 2021, which expands the definition of "single persons." Due to the modification of the statute prior to this final rule, HUD is making a conforming change to 24 CFR § 5.403 to align with the new statutory language.

Family - One or more persons who share goals and values, have commitments to one another, and reside usually in the same place. Family includes, but is not limited to the following, regardless of actual perceived sexual orientation, gender identity, or marital status. (1) A "family" may be a single person or a group or persons. (2). A "family" includes a family with a child or children. (3) A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family. (4) a single person family may be(*i*) an elderly person, (*ii*) a displaced person, (*iii*) a disable person and, (*iv*) any other single person. (5) A child who is temporarily away from the home because of placement in foster care is considered a member of the family. Sexuality orientation – homosexuality, heterosexuality, or bisexuality. Gender identity – actual or perceived gender-related characteristics.

Family rent to owner - In the voucher program, the portion of rent to Owner paid by the family. For calculation of family rent to owner, see Sec. 982.515(b).
Family self-sufficiency program (FSS program) - The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share - The portion of rent and utilities paid by the family. For calculation of family share, see

Sec. 982.515(a).

Family Unification Program (FUP) - a housing assistance initiative administered by the U.S. Department of Housing and Urban Development (HUD), in partnership with Public Housing Agencies (PHAs) and public child welfare agencies (PCWAs). Aimed at addressing homelessness and preventing family separations due to housing issues, as well as helping youth transitioning out of foster care. It provides Housing Choice Vouchers (HCVs) to families and youth who are at risk of out-of-home placement or homelessness.

Family Unit Size – The appropriate number of bedrooms for a family.

Fixed - *"Fixed" Source of Income* – Income that consists solely of periodic payments at reasonably predictable levels such as:

- Social Security, SSI, and SSDI
- Federal, State, Local or Private Pensions
- Annuities or other retirement benefit programs, insurance policies, disability or death benefits or other similar types of periodic receipts.
- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

FMR – Fair market rent

Foster Adult and Foster Child (HOTMA) - Regulation: 24 CFR § 5.603 The final rule establishes definitions for "foster adult" and "foster child." A foster adult is defined as a member of the household who is 18 years or older and meets the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state.
In general, a foster adult is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.
A foster child is defined as a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction. Foster adults/children are not considered family members and must not be included in calculations of income for eligibility and rent determination purposes. However, foster adults/children are considered household members and must be included when determining unit size or subsidy standards based on established policies.

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

Foster child - A member of the household who meets the definition of a foster child under State law. In

general, a foster child is placed with the family by an authorized placement agency (*e.g.,* public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster Youth to Independence (FYI) - program provides Housing Choice Vouchers (HCVs) to help young adults, aged 18-24, who are leaving or have left foster care and are homeless or at risk of homelessness. The program is a partnership between Public Housing Agencies (PHAs) and Public Child Welfare Agencies (PCWAs). The main goal is to offer these young adults housing assistance and supportive services to help them achieve self-sufficiency.

Gross rent - The sum of the rent to owner plus any utility allowance.

HA – Housing Agency

HAP contract - Housing assistance payments contract.

Health and Medical Care expenses (HOTMA) - , as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

HIP – Housing Information Portal – The HIP system is being designed to reduce administrative burden on housing authorities in the collection of HUD- 50058 and tenant data.

Homeownership assistance - Assistance for a family under the homeownership option. There are two alternative and mutually exclusive forms of homeownership assistance by a PHA for a family: monthly homeownership assistance payments, or a single down payment assistance grant. Either form of homeownership assistance may be paid to the family, or to a mortgage lender on behalf of the family.

HOTMA - Housing Opportunities through Modernization Act (HOTMA) was signed into law by President Obama on July 29, 2016. • HOTMA amends the U.S. Housing Act and other housing laws to modify multiple HUD programs and the Department of Agriculture's single family housing guaranteed loan program.

Housing Agency (HA) – A state, county, municipality or other governmental entity or public body authorized to engage in or assist in the development or operation of low-income housing.

Housing Assistance Payment (HAP) – 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. In the certification program, the additional payment is called a "utility reimbursement".

Housing Assistance Payments contract (HAP Contract) – A written contract between an HA and an owner, in the form prescribed by HUD headquarters, in which the HA agrees to make housing assistance payment to the owner on behalf of an eligible family.

Housing quality standards (HQS) –The minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the PHA under 24 CFR 5.705(a)(3)

HUD – The United States Department of Housing and Urban Development.

HUD requirements – HUD requirements for the Housing Choice Voucher programs. HUD requirements are issued by HUD headquarters, as regulations, **Federal Register** notices or other binding program directive.

Immediate family member means, with respect to a person: (1) A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis: or (2) Any other person living in the household of that person and related to that person by blood or marriage.

Independent Contractor (HOTMA) - Regulation: 24 CFR § 5.603(b) An independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax.
In general, an individual is an independent contractor if they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and transportation service providers are considered independent contractors unless state law dictates otherwise. In addition, individuals considered "gig workers," such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor.
Income earned as an independent contractor is not considered nonrecurring income (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., 24 CFR §§ 5.609(b)(3), (b)(14), etc.).

Independent Entity –
(i) *The unit of general local government; however, if the PHA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or*
(ii) A HUD-approved entity that is autonomous and recognized under State law as a separate legal entity from the PHA. The entity must not be connected financially (except regarding compensation for services performed for PHA-owned units) or in any other manner that could result in the PHA improperly influencing the entity.

Independent student – A student that meet one or more of the following criteria:
1. The individual is 24 years of age or older by December 31 of the award year;
2. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age of older;

3. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
4. The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
5. The individual is a graduate or professional student;
6. The individual is a married individual;
7. The individual has legal dependents other than a spouse;
8. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 *et seq.*), or as unaccompanied, at risk of homelessness, and self-supporting, by—
    a. a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;
    b. the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
    c. the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
    d. a financial aid administrator
9. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

Initial PHA - In portability, the term refers to both: (1) a PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) a PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard - The payment standard at the beginning of the HAP contract term.

Initial contract rent– The contract rent at the beginning of the initial lease term

Initial lease term – The initial term of the assisted lease. The initial term must be for at least one year.

Initial rent to owner– The rent to owner at the beginning of the initial lease term

Jurisdiction – The area in which the HA has authority under State and local law to administer the program.

Lease – A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payment under a HAP Contract between Landlord and the HA.

Lease addendum- An addition to the lease between the tenant and the owner, the lease language by HUD.

1937 Housing Act program – Any of the following programs:
(1) The public housing program or Indian housing program
(2) Any program assisted under Section 8 of the 1937 Act including assistance under a Section 8 tenant-based or project-based program.
(3) The Section 23 leased housing and housing assistance programs.

Major life activity – Those activities that are of central importance to daily life, to include but not limited to, seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.

Medical expenses – Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only).

Minimum Rent – *The PHA-determined minimum TTP amount. The minimum rent is the least a family will contribute toward rent and utilities. The PHA can set the minimum rent anywhere from $0 to $50*

Minor (HOTMA) - 24 CFR 5.603 is a family member who is under 18 years old and is not the head of the family or spouse.

NSPIRE – National Standards for the Physical Inspection of Real Estate - A method for conducting and processing inspections of HUD-assisted housing developed by HUD's Real Estate Assessment Center (REAC).

Non-citizen – A person who is neither a citizen nor a national of the United States

Non - Interim Transaction – *A process used when there is no change in adjusted income due to a decrease in family size.*

Owner – Any person or entity with the legal right to lease or sublease a unit to a participant.

Participant (participant family) – A family that has been admitted to the HA program, and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the HA for the family.

Payment standard – In the voucher program, an amount used by the HA to calculate the housing assistance payment for a family. Each payment standard amount is based on the fair market rent. The payment standard is the maximum monthly subsidy payment.

Person with a Disability – (1) A individual with a physical or mental impairment that substantially limits one or more major life activities; (2) a individual who is regarded as having such an impairment; and (3) a individual with a record of such an impairment.

PHA – Public housing agency (Public housing agency and housing agency mean the same thing.

PHA-owned unit –

A dwelling unit in a project that is:

A. Owned by the PHA (including having a controlling interest in the entity that owns the project);
B. Owned by an entity wholly controlled by the PHA; or
C. Owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.

A controlling interest is:

D. Holding more than 50 percent of the stock of any corporation;
E. Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a nonprofit corporation);
F. Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA;
G. Holding more than 50 percent of all managing member interests in an LLC;
H. Holding more than 50 percent of all general partner interests in a partnership; or
I. Equivalent levels of control in other ownership structures.

PHA plan - The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

Portability – Renting a dwelling unit with Housing Choice tenant-based assistance outside the jurisdiction of the initial HA

Premises – The building or complex in which the dwelling unit is located, including common areas and grounds.

Program – The Housing Choice Voucher Program

Physical or mental impairment – Includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

Reasonable Accommodation – A change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling.

Reasonable rent – A rent to owner that is not more than either: (1) rent charged for comparable units in the private unassisted market; or (2) rent charged by the owner for a comparable assisted or unassisted unit in the building or premises.

Receiving HA – In portability, an HA that receives a family selected for participation in the tenant-based

program of another HA. The receiving HA issues a certificate or voucher, and provides program assistance to the family.

Rent to owner– The monthly rent payable to the owner under the lease. Rent to owner includes payment for any services, maintenance and utilities to be provides by the owner includes payment for any services, maintenance and utilities to be provided by the owner in accordance with the lease.

Request for Tenancy Approval (RFTA) – A form (form HUD-52517) submitted by or on behalf of a family to a PHA once the family has identified a unit that it wishes to rent using tenant-based voucher assistance

Safe Harbor verification – Allows DCHA to use income determinations from other means- tested federal assistance programs to verify annual income.

Seasonal Worker (HOTMA) - Regulation: 24 CFR § 5.603(b) A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry.
Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver.
Income earned as a seasonal worker is not considered nonrecurring income (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., § 5.609(b)(14), etc.).

Section 8 Management Assessment Program (SEMAP) **-** A system used by HUD to measure PHA performance in key Section 8 program areas. See 24 CFR part 985.

Small Area Fair Market Rents (SAFMRs or Small Area FMRs) **-** Small Area FMRs are FMRs established for U.S. Postal Service ZIP code areas and are calculated in accordance with 24 CFR 888.113(a) and (b).

Special admission – Admission of an applicant that is not on the HA waiting list, or without considering the applicant's waiting list position.

Stalking means **– (1)(i)** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and (2) In the course of or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) That person, (ii) A member of the immediate family of that person or (iii) The spouse or intimate partner of that person.

Student – All students enrolled either full-time or part-time at an institution of higher education.

Subsidy standards - Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension – Stopping the clock on the term of a family's certificate or voucher, for such period as determined by the HA, from the time when the family submits a request for HA approval to lease a unit, until the time when the HA approves or denies the request.

Tenant – The person or persons (other than a live-in aide) who execute the lease as lessee of the dwelling unit

Tenant-paid utilities - *Utilities and services that are not included in the rent to owner and are the responsibility of the assisted family, regardless of whether the payment goes to the utility company or the owner. The utilities and services are those necessary in the locality to provide housing that complies with HQS. The utilities and services may also include those required by HUD through a Federal Register notice after providing opportunity for public comment.*

Tenant rent – The amount of rent to be paid by the tenant

Tuition *– See PIH 2015-21 (Exhibit V. Pg. 155)*

Unearned Income(HOTMA) **-** Regulation: 24 CFR§5.100 **-** Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

Unit – Dwelling unit

Utility reimbursement – The amount, if any, by which any utility allowance for family-paid utilities or other housing services exceeds the total tenant payment.

Violent criminal activity – Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher (rental voucher) – A document issued by an HA to a family selected for admission to the voucher program. The voucher describes the program and the procedures for HA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

Voucher holder – A family holding a voucher with unexpired search time.

Voucher program – Housing Choice Voucher Program.

Waiting list admission – An admission from the HA waiting list.

Withholding **-** Stopping HAP payments to an owner while holding them for potential retroactive disbursement.

Exhibit A. Landlord Briefing Packet

Dallas County Organizational Chart

The Purpose of Dallas County Housing Agency

Housing Choice Voucher Program (HCVP) “What it is and How it Works”

Landlord Notice Letter

Housing Quality Standards (~~**HQS**~~ **NSPIRE**) Inspections Section

Thirteen (13) ~~**HQS**~~ **NSPIRE** -HUD Inspection Regulation & Type of Inspections

- Checklist for ~~**HQS**~~ **NSPIRE**
- Abatement
- Rent Reasonableness
- Eligible and Ineligible Types of Housing
- Inspection Form

Housing Section

Contractual Relationships in the Housing Choice Voucher Program (~~**HQS**~~ **NSPIRE**)

- Dallas County Housing Agency (DCHA) Area of Jurisdiction
- Foreclosure
- Landlord Request Form
- Notices
- City of Dallas Ordinance 27751
- New Texas Law Regarding Smoke Alarms
- When Assistance is Paid by DCHA
- Disapproval of Owner Participation
- Steps to Leasing a Property on DCHA Housing Choice Voucher Program
- Steps to Leasing Overview Step 1: Screen and Selection of Family
- Step 2: Request for Tenancy Approval and Landlord Packet
- Step 3: Submit Request for Tenancy Approval (RFTA) to DCHA
- Step 4: ~~**HQS**~~ **NSPIRE** Inspection and Rent Reasonableness Survey
- Steps 5, 6, & 7: Contract Rent Approval, Contract Executed & Client Move-In
- Step 8: Landlord/Owner Receives HAP payment
- Dallas County Housing Agency Responsibilities
- Owner/Landlord Responsibilities
- Family Responsibilities
- How to Determine Rent
- Housing Choice Voucher [HUD-52646]
- Fair Market Rent (FMR) FY 2014-2015 Maximum Subsidy Standards
- Utilities Allowances (Single Family/Duplex/Manufacture Homes)
- Utilities Allowances (Apartments/Town Homes/Condos)
- Request for Tenancy Approval (RFTA)
- New Admission Letter to Owner/Management
- Housing Choice Voucher Program Overview & The Leasing Process

Leasing Process
Proposed Contract Rent
Fourteen (14) Acceptability Requirements a Unit Must Meet to Satisfy ~~**HQS**~~ **NSPIRE**
Request for Tenancy Approval (RFTA) Form
Landlord/Manager Responsibilities
Landlord Briefing Supplement
Verification of Deposit Form
Move-In Authorization Form
Unit Ready For Inspection Notice
Disclosures of Information on Lead-Based Paint & Hazards
Request for Tax Payment (W-9)
Owner Information and Management Company Information
Housing Assistance Payment Contract (HAP Contract)
Lease Addendum (Drug Free)
Contract and Lease Agreement Amendment
Notice of Intent to Move
Request for Rent Increase
Expanding Housing Opportunities
Dallas County Zip Codes
Portability
Local Housing Agencies
Reasonable Accommodations
Women Reauthorization Act (VAWA)
Fair Housing Booklet
Termination of Section 8 Housing Choice Voucher Assistance Letter
Initial Payments (8-10 Weeks)
Direct Deposit
Steps to Leasing a Property on DCHA

Exhibit B. Income Limits
FY 2025

Number of Persons in Family	Maximum Annual Income Limit	
1	30% of Median	- $ 24,650
	Very Low Income	- $ 41,100
	Lower Income	- $ 65,700
2	30% of Median	- $ 28,200
	Very Low Income	- $ 46,950
	Lower Income	- $ 75,100
3	30% of Median	- $ 31,700
	Very Low Income	- $ 52,800
	Lower Income	- $ 84,500
4	30% of Median	- $ 35,200
	Very Low Income	- $ 58,650
	Lower Income	- $ 93,850
5	30% of Median	- $ 38,050
	Very Low Income	- $ 63,350
	Lower Income	- $ 101,400
6	30% of Median	- $ 43,150
	Very Low Income	- $ 68,050
	Lower Income	- $ 108,900
7	30% of Median	- $ 48,650
	Very Low Income	- $ 72,750
	Lower Income	- $ 116,400
8	30% of Median	- $ 54,150
	Very Low Income	- $ 77,450
	Lower Income	- $ 123,900

Exhibit C. Income Assets

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) Saving and checking accounts are the most common assets. To determine the value of these accounts, DCHA will use count the current balance of the saving and or the checking account.

(5) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (C)(14) of this section);

(6) 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);

(7) Welfare assistance. 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:

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

(ii) The maximum amounts 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;

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

C. Annual Income Does Not Include the Following:
(1) Income from employment of children (including foster children) under the age of 18 years;
(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (B)(5) of this section);
(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
(5) Income of a live-in aide, as defined in 24 CFR 5.403;
(6) 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;
(i) Amounts received under training programs funded by HUD;
(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $ 200 per month) received by a resident for performing a service for

the HA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the HA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

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

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

(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 member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(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 any program to which the exclusions set forth in **24 CFR 5.609 (c)** apply. A notice will be published in the Federal Register and distributed to HA's and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

D. Annualize of Income:

If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the HA believes that past income is the best available indicator of expected future income, the HA may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

Exhibit D. Briefing Package Contents

1. Authorization for the Release Information/Privacy Act Notice (HUD 9886)
2. Authorization for the Release Information/Privacy Act Notice (DCHA)
3. Enterprise Income Verification (EIV)
4. Obligation to Report a Change in Household's income

5. Applicants Searching for Housing (Voucher 60 days)
6. What you should know about EIV (RHIIP)
7. Debts owed to Housing Agencies and Termination (HUD 52675)
8. Personal Declaration Questionnaire (3pages)
9. Income Checklist (3 pages)
10. Federal Privacy Act Statement (carbon sheet)
11. What's expected of tenants receiving rental assistance from Section 8 (carbon sheet)
12. Applicant/Tenant Certification (carbon sheet)
13. Your Obligation to the Section 8 Housing Program (carbon sheet)
14. Obligation of Participants
15. Additional adult living in the unit (carbon sheet)
16. Statement of Disclosure (carbon sheet)
17. Certification of U.S. Citizenship (carbon sheet)

Required Document/Verification for Eligibility Determination (carbon sheet)

Following documents for Applicants to review and maintain for their records

18. Fact Sheet/ How your rent is determined
19. Computation Worksheet
20. Current Maximum Subsidy Standards
21. Current Utility Allowances (Apartments/ Town Home/ Condos/ and Single Family/ Duplex/ Manufacture Homes)
22. Request for Tenancy Approval (RFTA Example)
23. Request for Tenancy Approval (RFTA)
24. Landlord Listing
25. Expanding Housing Opportunities
26. The advantages of moving to an area that does not have a high poverty concentration
27. Maps/ Demographics
28. Portability Process/ Portability Request /Local Housing Agencies (6 pages)
29. Reasonable Accommodation/ Request
30. Appointment Request Form
31. Termination of Family Assistance
32. Informal Hearing Procedures
33. Request for Housing Choice Voucher Extension
34. Release of Family Information
35. Tenancy Addendum
36. Violence Against Women Reauthorization Act ("VAWA")
37. Is Fraud Worth It (HUD-1141)
38. Fair Housing is Your Right Pamphlet
39. Are you a Victim of Housing Discrimination(Form HUD-903.1 (1/02)
40. A Good Place to Live (Booklet)
41. Protect your Family from Lead in your Home
42. Renovate Right-Important Lead Hazard information
43. Homeownership / Home Loan Program / Credit repair/ Financial workshops
44. Resource Referrals within surrounding area
45. Employment Services (Back Table)
46. School districts within surrounding areas (Back Table)

I _____have received the above documents during the Dallas County Housing Agency Tenant Briefing.

Exhibit E. Portability Procedures and Accounting System

I. Overview

An eligible Section 8 client may use the voucher to lease a unit anywhere in the United States where there is a housing agency operating a housing choice voucher program. Those families are known as portable clients. Dallas County Housing Choice Voucher Program administers both initial and receiving portability clients.

a. Initial

Dallas County Housing Choice Voucher Program participants may move to a different jurisdiction where there is a housing agency operating a housing choice voucher program. Those vouchers are recognized as portable vouchers and Dallas County Housing Agency administers the voucher as an Initial HA. The HA in the jurisdiction to which the family wishes to relocate is called the Receiving HA.

b. Receiving

Dallas County Housing Choice Voucher Program also accepts the Section 8 participants wishing to relocate from other jurisdiction to Dallas County. Those vouchers are also recognized as portable vouchers and Dallas County Housing Agency administers the voucher as a Receiving HA.

II. Program Procedure

a. When the Dallas County Housing Agency (DCHA) is the Initial Housing Authority:

i. DCHA will brief the family on the process that must take place to exercise portability.

ii. DCHA will determine whether the family is income-eligible in the area where the family wants to lease a unit (if applicable)

iii. DCHA will advise the family how to contact and request assistance from the Receiving Housing Authority.

iv. DCHA will promptly notify the Receiving Housing Authority to expect the family.

iv. The family will contact the receiving HA, and comply with receiving HA procedures for incoming portable families.

v. DCHA will immediately mail to the Receiving Housing Authority the most recent

HUD Form 50058 (Family Report) for the family, EIV and related verification information.

b. When the Dallas County Housing Agency (DCHA) is the Receiving Housing Authority:

i. When the portable family requests assistance from DCHA, DCHA will promptly inform the Initial Housing Authority whether it will bill the Initial Housing Authority for assistance on behalf of the portable family, or absorb the family into its own program. When DCHA receives a portable family, the family may be absorbed if funds are available and a voucher will be issued.

ii. The term of the DCHA voucher will not expire before the expiration date of any Initial Housing Authority's voucher. The DCHA will determine whether to extend the voucher term. The family must submit a request for tenancy approval to the DCHA during the term of the DCHA

iii. The DCHA will determine the family unit size for the portable family. The family unit size is determined in accordance with the DCHA subsidy standards.

iv. The DCHA will promptly notify the Initial Housing Authority if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher.

v. If the DCHA opts to conduct a new reexamination, DCHA will not delay issuing the family a voucher or otherwise delay approval of a unit unless the re-certification's voucher is necessary to determine income eligibility.

vi. In order to provide tenant-based assistance for portable families, DCHA will perform all Housing Authority program functions, such as reexaminations of family income and composition. At any time, either the Initial Housing Authority or the DCHA may make a determination to deny or terminate assistance to the family in accordance with **24 CFR 982.552**.

c. Absorption by the DCHA:

If funding is available under the consolidated ACC for the DCHA Voucher Program when the portable family is received, DCHA may absorb the family into its Voucher Program. After absorption, the family is assisted with funds available under the consolidated ACC for DCHA Tenant-Based Program.

d. Portability Billing

i. As the Initial Housing Authority, DCHA will promptly reimburse the Receiving

Housing Authority for the full amount of the housing assistance payments made by the Receiving Housing Authority for the portable family. The amount of the housing assistance payment for a portable family in the Receiving Housing Authority's program is determined in the same manner as for other families in the Receiving Housing Authority's program.

ii. DCHA will promptly reimburse the Receiving Housing Authority for 80% of the DCHA on-going administrative fee for each unit month that the family receives assistance under the tenant-based programs and is assisted by the Receiving Housing Authority. If both Housing Authorities agree, we may negotiate a different amount of reimbursement.

III. Financial Administration Itemized Procedures

a. Initial (port-out)

i. Case Manager submits the Assistance Authorization Form (AA) (sample copy attached) along with the Part II A of Form HUD-52665 (sample copy attached) to the Financial Administration (FA). FA make payments to the receiving HA based on information on this form.

ii. FA will then generate a Request for Payment to reimburse the receiving HA for 100% of the HAP made by the receiving HA and the administrative fee. The administrative fee is 80% of the Dallas County's column B fee factor.

iii. FA records all accounts payable/payment information of receiving HA and generates a sub-ledger (see attached sample) to reflect the portability transaction

iv Case Manager provides form HUD-52665 in the event of the receiving HA absorbing the family into their program, in which case FA terminates payments to the initial HA.

b. Receiving (port-in)

i. Case Manager submits the Assistance Authorization Form (sample copy attached) along with the Part II A of Form HUD-52665 to Financial Administration (FA). FA makes HAP payments based on information in this form.

ii. FA will then generate Request for Payments to pay the total amount of client's HAP.

iii. FA generates invoices (sample copy attached) for all initial HA's. The invoice contains the monthly HAP due and the administrative fee which is 80% of the initial HA's column B fee factor.

iv. FA records all accounts payable/payment information of receiving HA and generates a sub-ledger (see attached sample) to reflect the portability transaction

v. Case Manager provides form HUD-52665 in the event of Dallas County absorbing the family into our program in which case FA terminates the invoicing (to the Initial HA) for the said client.

c. Ongoing Disbursement of Portability Payments/HAP Register

i. Each month FA will provide Portability Rental Authorization to Case Managers for review and sign-off along with the regular HCV rental Authorization to the Case Managers.

ii. Case Managers will provide appropriate approval on the Rental Authorization and submit the HAP register (copy of sample excerpt) to the FA.

iii. Case Managers will also notify the FA and provide amended contract along with the AA in the event that any rental, utility or administrative fee amount changes. FA will incorporate the required changes.

Exhibit F. Initial Inspection of Units
[24 CFR 982.305]

Prior to the start of a new HAP contract, an initial inspection must be conducted. This process, started by the Case Managers, is done when a written initial request is submitted.

Once the inspection clerk has received the initial request, he/she will enter the request into the computer and tentatively assign it to one of the inspectors. The clerk will then date the initial request and forward it on to the Inspections Supervisor for final approval.

The Inspections Supervisor will review the request and determine based on workload, if the initial inspector assigned will conduct the inspection. At times, the initial request will have to be reassigned to another inspector due to illness, vacation, work load and special projects.

Once assigned, the inspector has five (5) working days to complete and return the inspection and a completed rent reasonable form to the inspections supervisor. The inspection supervisor will have one

(1) working day to review for correctness and then forward the inspection packet to the inspections clerk. The clerk will have two (2) working days to impute the results and return the completed passed initial inspection and rent reasonable form to the case manager. Should the unit fail, and corrective action needed, the owner will have thirty (30) days to make the repairs. The unit will fail if the utilities are not on at the time of inspection. The owner will have to activate the utilities prior to the tenant moving in. Once the repairs have been made and the unit has been re-inspected, then the process may move forward.

Under no circumstances will a HAP contract be initiated or signed, until a passed inspection and a rent reasonable has been completed, entered and submitted back to the case manager.

Exhibit G. Annual Inspection of Units
[24 CFR 982.404 - 982.405, & 24 CFR 983.204]

At least once a year, 90 days prior to the anniversary date of the HAP contract. The HA will conduct an inspection of each of its assisted units. If the HA determines that the unit is not in compliance with ~~**HQS**~~ **NSPIRE** standards as defined in section 982.401 of the CFR, a notice will be sent to the owner advising them of the repairs needed. Thirty (30) days will generally be allowed for the owner to make the repairs. The exception to this will be, if the corrective action needed, is determined by the HA to be

life threatening. In this case the corrective action must take place within 24 hours.

The HA will re-inspect the unit after the time allowed or at a time earlier should the owner notify the HA that all repairs have been made. If the repairs have not been made after the time allowed, the HAP contract payments will be abated. The abatement will be in effect until all repairs are made or until the HAP contract is terminated for non-compliance.

No retroactive payments will be made for the period that the unit is in abatement and not in compliance with ~~**HQS**~~ **NSPIRE** standards.

The HA will bar owners from future participation in the Housing Assistance Program who have three (3) units abated or terminated for non-compliance with the ~~**HQS**~~ **NSPIRE** standards referenced above.

If the unit fails ~~**HQS**~~ **NSPIRE** for reasons attributed to the clients miss use of the unit, the client will be notified in writing, as to the action the client must take to remedy the situation. If the client fails to provide or maintain in working order any appliances that are provided by the client or when a member

or guest of the family causes damage to the unit beyond normal wear and tear, the family will be given thirty (30) days to correct the defect. If defect is deemed to be of a life threatening nature, such as the client fails to pay for utilities that are their responsibility, the client will have 24 hours to take corrective action. If the defects are not corrected within the time allowed, the HAP contract and the client's participation in the program will be terminated.

The client and the owner may request an inspection at any time during the year if a deficiency exists and if efforts to have the deficiency corrected by the responsible party have failed. The inspection and the HA follow up will be handled as described above.

Exhibit H. Reportable Income that is excluded from 50058

1. **Welfare income** (Food Stamp)

2. **Live-in aide income [24 CFR5.403]** a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

   i. Is determined to be essential to the care and well-being of the persons;
   ii. Is not obligated for the support of the persons; and
   iii. Would not be living in the unit except to provide the necessary supportive services.

3. **Earned Income Disallowance (EID) [24 CFR 5.617]**

   HUD issued a final rule January 19, 2001 in the Federal Register effective for disabled families who are participants in the Section 8 housing Choice Voucher Program on or after April 20, 2001. HA's must take all necessary steps to ensure those disabled families eligible for the mandatory earned income disallowance receive the disallowance.

   Amendment to the EID final rule as of March 2016 is applied for a straight 24 month period, with a clear start date and end date at 100% exclusion [Federal Register/Vol. 81, No.45 March 8, 2016 pg. 12355, *Earned Income Disregard(6)].*

   EID QUALIFICATION:

i. To qualify for the EID, an HCV family must be a program participant, that is it must already be receiving assistance under HCV program

ii. In addition to qualify for the EID, an HCV family must experience an increase in annual income that is the result of one of the following three events:

1. Employment by a family member who is a person with disabilities and who was "previously unemployed" for one or more years prior to employment.

   The definition of previously unemployed includes a person who has earned not more than could be earned working 10 hours per week for 50 weeks at the established minimum wage; that is the minimum wage applicable to the locality in which the EID determination is made.

2. Increased earnings by a family member who is a person with disabilities and whose earnings increased during participation in an economic self-sufficiency program or other job training program.

An economic self-sufficiency program **[24 CFR 5.603(b)]** is any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted

families or to provide work for such families.

New employment or increased earnings by family member who is a person with disabilities

1. and who has received TANF benefits or services within the past six months

If the TANF is received in the form of monthly maintenance, there is no minimum amount.

If the TANF is received in the form of one-time payments, wages subsidies, or transportation assistance, the total amount received over a six-month period must be at least $50.

Exhibit I. Special Programs

Dallas County Housing Agency has administered HUD Multifamily Housing Conversion Program since 1998. HUD provides tenant based rental assistance to assist eligible residents that are affected by such action. **(Notice PIH 2001-41 (HA))**

Special Attention: Public Housing Hub Center Coordinators; Multifamily Hub Directors; Directors; Section 8 Public Owners/Agents

NOTICE PIH 2001-41 (HA) Office Directors; PIH Program

Issued: November 14, 2001 Multifamily Program Center
Expires: November 30, 2002 Housing Agencies; and

Cross References:

Subject: Section 8 Tenant-Based Assistance (Enhanced and Regular Housing Choice Vouchers) For Housing Conversion
Actions – Policy and Processing Guidance

1. Purpose. The purpose of this notice is to revise the funding process and several administrative policies concerning regular and enhanced vouchers provided as the result of Housing conversion actions.

2. **Background.** Over the past few years and subject to the availability of appropriations, HUD has provided tenant-based rental assistance in order to assist eligible residents that are affected by several different types of owner or HUD actions in HUD's Office of Multifamily Housing programs (collectively described as "Housing conversion actions"). These actions are owner decisions to opt-out of or not renew Section 8 project-based contracts (opt-outs); owner prepayment of the mortgage or voluntary termination of the mortgage insurance of a preservation eligible property (preservation prepayments); HUD enforcement actions against the owner (including termination or non-renewal of a Section 8 project-based housing assistance payments(HAP) contract); and HUD property disposition activities.

Depending on the Housing conversion action, eligible families receive either regular voucher assistance or enhanced voucher assistance. Enhanced voucher assistance under Section 8(t) of the United States Housing Act of 1937 differs from regular housing choice voucher assistance in two major respects. If the family remains in the project, the family must continue to contribute towards rent at least the amount the family was paying for rent on the eligibility event, and a higher "enhanced" payment standard is used to determine the amount of subsidy when the gross rent exceeds the normally applicable PHA payment standard.

This notice supersedes HUD Notice PIH 2000-9. While much of the information in this notice is the same as the guidance previously provided in HUD Notice PIH 2000-9, the following policy changes and clarifications are included:

A. The procedures for processing housing choice voucher funding for Housing conversion actions have been significantly streamlined. In addition, the effective date of the annual contributions contract (ACC) is specified. (pages 13-17)

B. PHAs are no longer required to cost-justify the $250 special fee provided for the extraordinary administrative costs associated with a Housing

conversion action. PHAs will automatically receive the full $250 special fee for each occupied unit covered by the conversion action at the time the funding increment is added to the PHA's ACC exhibit. (pages 12-13)

C. Guidance on the PHA screening of Housing conversion families has been slightly revised to ensure that the PHA screening of applicant is consistent with the PHA screening policy for regular admission applicants. (page 6)

D. Additional guidance is provided on determining whether enhanced or regular voucher assistance is made available to eligible families. (pages 3 - 5 pages 24 - 25)

E. The notice revises information previously provided on owner opt-outs to clarify families assisted under rent supplement contract that end are only eligible for enhanced voucher assistance under section 524(d) of the Multifamily Assistance Housing Reform and Affordability Act of 1997 (MAHRA very in very limited circumstances. (page 18)

F. The notice adds a new component to the owner opt-out category. Eligible low – income families assisted under a rent supplement contract that terminates but is not covered by section 524 (d)of MAHRA may now receive regular voucher assistance in certain circumstances, subject to the availability of appropriations. (page 4)

G. Guidance on the enhanced voucher policy on over-housed families has been expanded. (pages 27 – 29, 35-36)

H. The notice implements a new policy on retaining enhanced voucher protections for eligible families that do not immediately qualify for a voucher subsidy because the owner's initial gross rent following the eligibility event will be less than the family share. (page 25)

I. The FY 2001 Military Construction and FY 2000 Emergency Supplemental Appropriations Act amended the enhanced voucher statute at 8(t) to provide that families have the right to elect to remain in the same project with enhanced voucher protection. The Section 8 Renewal Policy Guidebook, issued by the Office of Multifamily Housing on January 19, 2001, provides guidance on an owner's responsibility to accept enhanced voucher assistance on behalf of eligible tenants if the owner opts-out of the Section 8 project–based contract. The notice clarifies that these same protections also extend to families that receive enhanced voucher assistance as the result of preservation prepayments. (page 25)

PART I General Programmatic Policies for Housing Conversion Actions

A. Covered housing conversion actions.
B. Common tenant-based programmatic issues for Housing conversion actions.
C. Funding processing issues and the special fee.
D. Funding procedures.

A. Housing Conversion Actions

The following actions constitute "Housing conversion actions" and are covered by this notice.

Preservation prepayments. If appropriations are available, certain residents of preservation eligible properties (generally Section 236 and Section 221 (d)(3) projects) are eligible for enhanced voucher assistance when the owner prepays the mortgage or voluntarily terminates the mortgage insurance. Part II of the notice

covers family eligibility for enhanced vouchers
as a result of a preservation prepayment.

Project-based opt-outs. When an owner chooses to end participation in certain programs by either opting-out of or not renewing certain expiring Section 8 contracts, eligible low-income residents assisted under the expiring Section 8 project - based contract are eligible for enhanced voucher assistance. The opt-out category includes cases where Section 8 contracts in restructured projects are converted to tenant-based

assistance in accordance with section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997. In the case of a 515(c) opt-out, all families assisted under the expiring contract are income-eligible for enhanced voucher assistance.

Eligible low-income residents assisted under a rent supplement contract under Section 101 of the Housing and Urban Development Act of 1965 that ends at expiration of a Section 8 HAP contract for units in the project are also eligible for enhanced voucher assistance. In the case where a rent supplement contract ends and there is not an expiring Section 8 project-based contract at the project, regular vouchers are provided to the eligible low income families covered by the rent supplement contract, subject to the availability of appropriations.

HUD enforcement actions. In these cases, HUD is either terminating the Section 8 project-based HAP contract or not offering the owner the option to renew an expiring Section 8 project-based HAP contract due to an owner's failure to comply with the terms of the HAP contract. It includes suspensions and debarments.

HUD enforcement actions may also result from material adverse financial or managerial actions or omissions that lead to either owner default under a FHA -insured mortgage (monetary or technical) or a documented material violation of one or more of the obligations under the project's Regulatory Agreement.

Eligible families are usually assisted with regular vouchers in these circumstances because families must move in order to receive housing choice voucher assistance. Units subject to an enforcement action are usually not in decent, safe, and sanitary condition.

PHAs must not approve an assisted tenancy if the PHA has been informed that the owner is debarred, suspended, or subject to a limited denial of participation. Furthermore, PHAs may also disapprove owner participation in the housing choice voucher program for a number of other grounds described in the housing choice voucher program regulations. For example, the PHA may disapprove the owner if an owner has violated obligations under a HAP contract under Section 8 of the 1937 Act; if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; or if the owner has a history or practice of non-compliance with applicable housing standards leased with Section 8 project - based assistance or leased under any housing program. HUD encourages the PHA to disapprove a tenancy for any of these grounds in a case where vouchers are provided because HUD is taking an enforcement action against the owner.

In a few situations, however, families assisted under a Section 8 project - based HAP contract that is being terminated may be able to remain at the property. In such a case, the project - based families would qualify for enhanced vouchers. These exceptions are further discussed in detail in Part II of the notice.

HUD property disposition (PD). In these cases HUD is selling the property at a foreclosure sale, or is

the mortgagee-in-possession or owner of the multifamily property due to an owner default on an FHA-insured mortgage and is closing down the property or selling the property to a new owner. Regular vouchers are provided to assist eligible low-income families in these cases.

B. Common tenant-based program issues for Housing conversion actions.

In general, housing choice voucher program rules, regulations, and requirements apply to special admission vouchers made available for families as the result of Housing conversion actions. Enhanced vouchers have several unique requirements that are covered extensively in Part II of this notice.
The following program guidance is applicable to all Housing conversion actions and both regular and enhanced voucher assistance.

(1) Tenant-based nature of the assistance. Housing choice vouchers (including enhanced vouchers) provided as the result of a Housing conversion action are always tenant-based assistance. Families issued vouchers may elect to use the assistance in the same project and in all cases may choose to move from the property immediately. Families may immediately move outside of the jurisdiction of the administering PHA under the portability provisions of the voucher program. There is no guarantee to the owner that any housing choice voucher assistance will be used at the property for any period of time. The PHA should emphasize the tenant-based aspect of the assistance when briefing the families, who may be unfamiliar with the concept of tenant - based assistance and the freedom of choice associated with a tenant-based subsidy.

(2) PHA screening of families. By agreeing to administer the special admission tenant - based assistance, the PHA is not relinquishing its authority to screen potentially eligible families or deny assistance for any grounds allowed by §982.552 and §982.553.
The screening of families and decisions to deny admission to the program must be the same as the PHA policy for screening regular admissions of families from the PHA waiting list.

The PHA must provide a family with an opportunity for an informal review if it denies the family admission to the voucher program in accordance with the housing choice voucher regulations. While the decision to deny assistance rests with the PHA, HUD encourages PHAs to provide an otherwise eligible resident with the opportunity to enter into a repayment agreement if the sole reason for the denial is that the family owes the PHA or another PHA rent or other amounts in connection with public housing or Section 8.

(3) Use of owner certifications for determining tenant income. In order to reduce processing time, HUD permits the PHA to use the owner's most recent family income examination if (a) the owner's current certification for the family is no more than six months old and (b) the PHA determines that the owner certifications are acceptable after reviewing a small sample for accuracy. The PHA is never required to use the owner certifications and may choose to conduct its own income determination and verification.

Federal law and program regulations require a reexamination of family income and composition at least annually. Therefore, if the PHA chooses to use the owner's income certification, the PHA must complete the subsequent family reexamination within one year of the date of the owner certification, not the date the PHA accepted the owner certification in lieu of conducting its own determination.

(4) PHA subsidy standards. The PHA issues the housing choice vouchers in accordance with the

PHA subsidy standards, not the actual size of the unit the family is currently occupying. There is a special rule for enhanced vouchers concerning families who reside in over-sized units and wish to remain at the property This exception only applies to enhanced voucher assistance and is covered in Part II of this Notice.

The normal tenant - based program rules apply in all other cases. The family unit size determined by the PHA subsidy standards is used to calculate the maximum rent subsidy for the family. The payment standard for the family must be the lower of the payment standard for the family unit size under the PHA subsidy standards or the payment standard for the actual size of the unit rented by the family (see §982.402(c)).

(5) Term of the voucher. Since these vouchers targeted to specific families adversely affected by HUD or owner actions in HUD multifamily projects, the PHA is encouraged and expected to provide families with maximum search time that is reasonably required to locate housing.

(6) Rent reasonableness and approval of tenancy. All regular program requirements concerning the reasonableness of the rent apply, regardless of whether the vouchers are enhanced vouchers or regular vouchers. (Reasonable rent is defined at 24 CFR 982.4 as a rent to owner that is not more than rent charged: (1) for comparable units in the private unassisted market; and (2) for comparable unassisted units in the premises.) The PHA may not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent, regardless of whether the family prefers to remain in the family's current unit. The PHA must determine the rent requested by the owner is a reasonable rent in comparison to other comparable unassisted units based on the current condition of the unit. The PHA does not base the rent reasonableness determination on any pending or planned enhancements to the property. If the PHA determines the proposed rent is not reasonable, the owner must lower the rent or the family will have to find another unit in order to benefit from the voucher subsidy.

PHA approval of the assisted tenancy must be in accordance with program requirements, regardless of whether the family is staying in the unit at the property or moving to a new location. The PHA may not approve any temporary or short-term leases between the family and the owner. The initial lease term must be for at least one year unless the PHA has determined for the housing choice voucher program that a shorter term would improve housing opportunities for the tenant and such shorter term is the prevailing local market practice (see §982.309).

(7) ~~Housing Quality Standards~~ (**~~HQS~~ NSPIRE**) inspections. The PHA must inspect the unit and ensure that the unit meets the housing quality standards of the program, regardless of whether the family is residing in a unit that was previously assisted under a Section 8 project - based contract. Under no circumstances may the PHA make housing assistance payments for any period prior to the date that the PHA physically inspects the unit and determines the unit meets the housing quality standards. The PHA does not make any exceptions to the normal housing quality standards used by the PHA and conducts a complete **~~HQS~~ NSPIRE** inspection of the unit.

(8) Timing issues involving HAP contract execution and effective dates. The funding process is intended to result in issuance of the voucher to the family at least 60 days prior to the target date of the Housing conversion action. The target date refers to the date that the family would be impacted by a rent increase or possible displacement as a results of the conversion action. For example, under an opt-out or HUD enforcement action the target date is the date which the project - based HAP contract expires or is terminated. For a preservation property, the target date is the earliest date the owner may increase the rent (no earlier than 60 days following the effective date of the prepayment). However, in some circumstances it may not be possible to issue the voucher 60 days before the target date.

Before approving a family to lease a dwelling unit with voucher assistance, the PHA must determine

that the following conditions are met: (1) the unit is eligible, (2) the unit has been inspected by the PHA and passes ~~**HQS**~~ **NSPIRE**, (3) the lease includes the tenancy addendum, (4) the rent to the owner is reasonable, and (5) at the time a family initially receives tenant – based regular voucher assistance for occupancy of a dwelling unit and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share (gross rent minus subsidy) must not exceed 40 percent of the family's adjusted monthly income. (The 40
percent restriction is not applicable in the case of a family assisted with enhanced voucher assistance. See part II of this notice for a detailed discussion of the enhanced voucher subsidy calculation.)

Once these conditions are met, the PHA may approve the unit for leasing. PHAs are reminded that while the PHA must use best efforts to execute the HAP contract before the beginning of the lease term, the HAP contract may be executed up to 60 calendar days after the beginning of the lease term (see §982.305(c)). If the HAP contract is executed during this period, the PHA will pay retroactive housing assistance payments to cover the portion of the PHA approved lease term before execution of the HAP contract. However, under no circumstances may the PHA make payments to the owner before the HAP contract is executed. Furthermore, any HAP contract executed after the 60 - day period is void and the PHA may not pay any housing assistance payment to the owner for that period. In some circumstances where the funding is not yet available on the target date, this 60 – day window can prevent unnecessary hardship on the family. For instance, if the unit is approved by the PHA and the owner is willing to lease the unit to the family with the understanding they will receive HAP payments retroactively (provided the HAP contract is execute within the following 60 days), the family can be protected even though the funding is not available. It is crucial that the PHA make the unit approval determination before the target date, since under no circumstances may an assisted lease term commence before the date the PHA approves the unit for leasing. While the process is designed to have the voucher funding available well before the target date, HUD public housing staff and PHAs may find this 60-day measure of last resort a valuable tool for completing the transition with no disruption.

In establishing the effective date of the tenant–based HAP contracts, it is very important to make a distinction between families who choose to stay in the property and families who choose to move. The PHA may <u>not</u> approve a tenancy (and execute a housing choice voucher HAP contract) on behalf of a stayer (family that stays in the project) for a lease term that is effective prior to the target date of the Housing conversion action. For a family that is moving, however, the PHA may often approve a tenancy that begins before the target date, since in strong rental markets potential landlords will not hold a unit vacant.

(9) <u>Initial and subsequent use of vouchers</u>. All housing choice vouchers (enhanced or non–enhanced) provided in connection with a Housing conversion action are special admission vouchers. Special admission vouchers differ from regular vouchers in that the assistance is provided by HUD with a specific family in mind. The PHA must first use the allocation to assist the families targeted for assistance. The PHA does not consider whether the family is on the housing choice voucher waiting list or the family's position on the housing choice voucher waiting list.

When HUD provides vouchers to a PHA as the result of a Housing conversion action, HUD will offer housing choice voucher funding on a one-for-one replacement basis to make up for the loss of the affordable housing units in the community, subject to the availability of appropriations. For example, if an owner is opting–out of a 100 unit Section 8 project-based contract, the Department will offer funding for 100 vouchers to the
administering PHA. The PHA will use the assistance to assist the eligible families affected by the opt-out. Any additional vouchers under this allocation (for example, unused vouchers resulting from vacant units under the expiring project-based contract or units occupied by ineligible families) may be used by the PHA to assist families on the PHA waiting list.

Similarly, if the owner of a preservation eligible 100 unit Section 236 property prepays the mortgage, the PHA will receive an allocation of 100 vouchers. If 15 vouchers remain unused after issuance to the eligible residents of the property, the PHA retains the vouchers and may use them to assist families on the PHA waiting list. If the PHA uses remaining voucher funding to assist families on the PHA waiting list, the voucher is simply a regular voucher and does not have any enhanced features.

Note that the one-for-one replacement is based on the number of units impacted by the Housing conversion action, which may or may not correspond to the total number of units in the project. For instance, in the case of Section 8 project - based contract pot-out, if the contract is for 50 units and the property has a total number of 75 units, the PHA would be offered an allocation of 50 units. Likewise, if an owner is prepaying the mortgage of a 100 unit preservation eligible property, but there is a Section 8 project - based contract for 40 units that is continuing (and will be handled as a separate Housing conversion action at the time of contract expiration), the PHA will be offered 60 vouchers under the one-for-one replacement policy.

If a voucher issued to a family as the result of a Housing conversion action turns over for any reason, the PHA retains the voucher for use as part of its housing choice voucher program. Note that in case where an enhanced voucher turns over following initial issuance (i.e., an enhanced voucher participant leaves the program), the voucher loses its special enhanced characteristics and is subject to all normal program rules. Inapplicability of the PHA income targeting requirement. In general, not less than 75 percent of the families admitted to a PHA's tenant-based voucher program during the PHA fiscal year must be targeted to families whose annual income does not exceed 30 percent of median income. Families admitted to the PHA's tenant-based voucher program as a result of a Housing conversion action are not subject to the income targeting requirements of the tenant-based program, and their admission is not counted in determining whether the PHA is complying with the income targeting requirement.

C. Funding Processing Issues and the Special Fee.

(1) General information. The tenant-based funding process is complicated by the relatively short amount of time available to complete the process before families may be adversely affected by a Housing conversion action. Therefore, the most important step in the entire process is to initiate the funding process as early as possible. In general, the funding process must begin at least 120 days prior to the target date of the Housing conversion action (and at least 180 days in cases where families will have to move to receive voucher assistance). Failure to initiate the process with sufficient time available is the single greatest obstacle to completing the Housing conversion action in a satisfactory manner.
Excellent communication between HUD's Offices of
Housing, Public Housing, and the Section 8 Financial Management Center, as well as the owner, the PHA, and the residents, is critical to the process. Staff responsibility for communication and technical assistance in the Field Office should always follow program lines of authority.

For example, HUD's Office of Housing is primarily responsible for ensuring that the owner is aware of and complies with any owner requirements. Housing staff also serve as the owner's primary HUD contact throughout the entire conversion process. On the other hand, HUD oversight and management responsibilities for the housing choice voucher program rests with the Office of Public Housing. This means the Office of Public Housing is responsible for selecting the PHA that will be asked to administer the tenant-based assistance. Only the Office of Public Housing may extend an invitation to a PHA to administer housing choice voucher assistance. Also, only Public Housing staff should provide technical assistance and guidance on any related tenant - based program issues.

This does not mean that Housing staff is prohibited from communicating with the PHA or that Public Housing staff is barred from having discussions with an owner. However, it is important that HUD guidance and instructions are provided by the appropriate program staff person to avoid any errors or confusion that may hamper the process.

(2) Special fee for extraordinary costs associated with the covered Housing conversion actions.

(a) Background. In order to avoid or at least minimize any adverse impact of the conversion action on the affected families, the administering PHA must complete a number of tasks within a relatively short amount of time. These tasks include completing and submitting the funding application; determining each individual family's eligibility; reviewing proposed rents; and conducting housing quality standards inspections on potential units. In the majority of Housing conversion actions, the PHA will not be able to absorb the increased work-load over several months but must work with all the potentially eligible residents who are making the transition simultaneously. The challenge may be further exacerbated by the fact that many or all of the affected residents either want or are required to relocate.

Depending on the number of residents affected by the action, PHAs may have to borrow staff from neighboring agencies in order to promptly process and assist all the eligible families. Given the pressing deadlines associated with most Housing conversion actions, HUD has encouraged PHAs to begin tasks such as certifying families and approving units before the PHA actually receives the ACC funding exhibit.

PHAs will receive a special fee for the extraordinary costs resulting from a covered Housing conversion action. The purpose of this special fee is twofold: (1) to compensate PHAs for any extraordinary administrative costs associated with these special purpose allocations; and (2) to ensure PHAs will receive reimbursement for their efforts in the rare instances where the pending conversion action does not ultimately happen because of a decision by the owner or HUD. This fee only applies when a PHA agrees to administer tenant - based assistance for a potential Housing conversion action. The special fee is only applicable in the case of a Housing conversion action.

Exhibit J. Utility Allowances

Allowances for Tenant-Furnished Utilities and Other Services

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 09/30/2010)

See Public Report Statement and Instructions on back

Locality	Unit Type	Date (mm/dd/yyyy)
Dallas County	Apartments/Town Homes/Condos	**OCTOBER 1, 2024**

Utility or Service		Monthly Dollar Allowances					
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	a. Natural Gas	26.00	32.00	41.00	47.00	55.00	
	b. Bottle Gas						
	c. Oil/Electric	16.00	18.00	23.00	26.00	32.00	
	d. Coal/Other						
Cooking	a. Natural Gas	2.00	6.00	9.00	9.00	12.00	
	b. Bottle Gas						
	c. Oil/Electric	4.00	4.00	6.00	6.00	7.00	
	d. Coal/Other						
Other Electric		21.00	23.00	30.00	33.00	38.00	
Air Conditioning		15.00	17.00	18.00	24.00	32.00	
Water Heater	a. Natural Gas	15.00	21.00	26.00	32.00	41.00	
	b. Bottle Gas						
	c. Oil/Electric	11.00	16.00	18.00	23.00	30.00	
	d. Coal/Other						
Water		17.00	25.00	33.00	39.00	50.00	
Sewer		6.00	6.00	6.00	6.00	6.00	
Trash Collection		26.00	26.00	26.00	26.00	26.00	
Range/Microwave		15.00	15.00	15.00	15.00	15.00	
Refrigerator		13.00	13.00	13.00	13.00	13.00	
Other -- specify							

Actual Family Allowances To be used by the family to compute allowance. Complete below for the actual unit rented,

Name of Family

Address of Unit

–, TEXAS

Number of Bedrooms

–

Utility or Service	per. month cost
Heating	
Cooking	
Other Electric	
Air Conditioning	
Water Heater	
Water	
Sewer	
Trash Collection	
Range/Microwave	
Refrigerator	
Other -- specify	
Total	

Previous editions are obsolete

Page 1 of 1

form HUD-52667 (12/97)
Ref. Handbook 7420.8
DCHA - REV G

Allowances for Tenant-Furnished Utilities and Other Services

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 09/30/2010)

See Public Report Statement and Instructions on back

Locality	Unit Type	Date (mm/dd/yyyy)
Dallas County	Single Family/Duplex/Manufacture Homes	**OCTOBER 1, 2024**

Utility or Service		Monthly Dollar Allowances					
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	a. Natural Gas		45.00	57.00	68.00	77.00	87.00
	b. Bottle Gas						
	c. Oil/Electric		26.00	32.00	38.00	38.00	44.00
	d. Coal/Other						
Cooking	a. Natural Gas		6.00	9.00	9.00	12.00	12.00
	b. Bottle Gas						
	c. Oil/Electric		4.00	6.00	6.00	7.00	9.00
	d. Coal/Other						
Other Electric			26.00	32.00	38.00	44.00	54.00
Air Conditioning			21.00	23.00	26.00	32.00	32.00
Water Heater	a. Natural Gas		21.00	26.00	26.00	36.00	45.00
	b. Bottle Gas						
	c. Oil/Electric		18.00	23.00	30.00	33.00	41.00
	d. Coal/Other						
Water			32.00	39.00	48.00	60.00	69.00
Sewer			6.00	6.00	6.00	6.00	6.00
Trash Collection			26.00	26.00	26.00	26.00	26.00
Range/Microwave			15.00	15.00	15.00	15.00	15.00
Refrigerator			13.00	13.00	13.00	13.00	13.00
Other -- specify							

Actual Family Allowances To be used by the family to compute allowance.
Complete below for the actual unit rented,

Name of Family

Address of Unit

–, TEXAS

Number of Bedrooms

–

Utility or Service	per. month cost
Heating	
Cooking	
Other Electric	
Air Conditioning	
Water Heater	
Water	
Sewer	
Trash Collection	
Range/Microwave	
Refrigerator	
Other -- specify	
Total	

Exhibit K. Fair Market Rent

Small Area Demonstration Program

Schedule B – FY2024 - 2025 Final Fair Market Rents for existing housing Dallas, TX is part of and will use Schedule B Addendum Table for operating the Housing Choice Voucher Program.

100% of Fair Market Rent (FMR) (Effective Date 10/1/24)

ZIP Code	*Efficiency*	*One-Bedroom*	*Two-Bedroom*	*Three-Bedroom*	*Four-Bedroom*
75001	$2,010	$2,110	$2,470	$3,100	$3,980
75006	$1,580	$1,660	$1,950	$2,440	$3,140
75007	$1,580	$1,650	$1,940	$2,430	$3,120
75011	$1,510	$1,590	$1,860	$2,330	$2,990
75014	$1,460	$1,530	$1,800	$2,260	$2,900
75015	$1,460	$1,530	$1,800	$2,260	$2,900
75016	$1,460	$1,530	$1,800	$2,260	$2,900
75017	$1,460	$1,530	$1,800	$2,260	$2,900
75019	$1,820	$1,910	$2,240	$2,810	$3,610
75030	$1,460	$1,530	$1,800	$2,260	$2,900
75038	$1,620	$1,700	$2,000	$2,510	$3,220
75039	$2,160	$2,270	$2,660	$3,330	$4,280
75040	$1,510	$1,590	$1,860	$2,330	$2,990
75041	$1,330	$1,400	$1,640	$2,060	$2,640
75042	$1,290	$1,360	$1,590	$1,990	$2,560
75043	$1,470	$1,540	$1,810	$2,270	$2,910
75044	$1,690	$1,770	$2,080	$2,610	$3,350
75045	$1,460	$1,530	$1,800	$2,260	$2,900
75046	$1,460	$1,530	$1,800	$2,260	$2,900
75047	$1,460	$1,530	$1,800	$2,260	$2,900
75048	$1,880	$1,970	$2,310	$2,890	$3,720
75049	$1,460	$1,530	$1,800	$2,260	$2,900
75050	$1,430	$1,510	$1,770	$2,250	$2,850
75051	$1,200	$1,260	$1,480	$1,860	$2,380
75052	$1,640	$1,730	$2,030	$2,600	$3,260
75053	$1,430	$1,510	$1,770	$2,260	$2,850
75054	$2,060	$2,190	$2,560	$3,390	$4,130
75060	$1,390	$1,460	$1,710	$2,140	$2,750
75061	$1,360	$1,420	$1,670	$2,090	$2,690
75062	$1,420	$1,490	$1,750	$2,190	$2,820

ZIP Code	*Efficiency*	*One-Bedroom*	*Two-Bedroom*	*Three-Bedroom*	*Four-Bedroom*
75063	$1,840	$1,930	$2,270	$2,840	$3,650
75067	$1,630	$1,710	$2,010	$2,520	$3,240
75080	$1,630	$1,710	$2,010	$2,520	$3,240
75081	$1,710	$1,800	$2,110	$2,640	$3,400
75082	$2,010	$2,110	$2,480	$3,110	$3,990
75083	$1,460	$1,530	$1,800	$2,260	$2,900
75085	$1,460	$1,530	$1,800	$2,260	$2,900
75088	$2,020	$2,120	$2,490	$3,120	$4,010
75089	$1,940	$2,040	$2,390	$2,990	$3,850
75098	$2,000	$2,100	$2,460	$3,080	$3,960
75099	$1,460	$1,530	$1,800	$2,260	$2,900
75104	$1,850	$1,940	$2,280	$2,860	$3,670
75106	$1,460	$1,530	$1,800	$2,260	$2,900
75115	$1,540	$1,610	$1,890	$2,370	$3,040
75116	$1,460	$1,530	$1,800	$2,260	$2,900
75123	$1,460	$1,530	$1,800	$2,260	$2,900
75125	$1,250	$1,310	$1,540	$1,930	$2,480
75134	$1,530	$1,600	$1,880	$2,360	$3,030
75137	$1,760	$1,850	$2,170	$2,720	$3,490
75138	$1,460	$1,530	$1,800	$2,260	$2,900
75141	$1,540	$1,610	$1,890	$2,370	$3,040
75146	$1,580	$1,650	$1,940	$2,430	$3,120
75149	$1,410	$1,470	$1,730	$2,170	$2,780
75150	$1,470	$1,540	$1,810	$2,270	$2,910
75154	$1,540	$1,610	$1,890	$2,370	$3,040
75159	$1,410	$1,470	$1,730	$2,170	$2,780
75172	$1,170	$1,230	$1,440	$1,800	$2,320
75180	$1,300	$1,360	$1,600	$2,000	$2,580
75181	$2,140	$2,250	$2,640	$3,310	$4,250
75182	$1,680	$1,760	$2,070	$2,590	$3,320
75185	$1,460	$1,530	$1,800	$2,260	$2,900
75187	$1,460	$1,530	$1,800	$2,260	$2,900
75201	$2,300	$2,410	$2,830	$3,550	$4,560
75202	$2,050	$2,150	$2,520	$3,160	$4,060
75203	$1,170	$1,230	$1,440	$1,800	$2,320
75204	$2,210	$2,320	$2,720	$3,410	$4,380
75205	$2,250	$2,360	$2,770	$3,470	$4,460
75206	$1,890	$1,990	$2,330	$2,920	$3,750
75207	$1,970	$2,070	$2,430	$3,050	$3,910

ZIP Code	*Efficiency*	*One-Bedroom*	*Two-Bedroom*	*Three-Bedroom*	*Four-Bedroom*
75208	$1,500	$1,580	$1,850	$2,320	$2,980
75209	$1,810	$1,900	$2,230	$2,790	$3,590
75210	$1,000	$1,050	$1,230	$1,540	$1,980
75211	$1,190	$1,240	$1,460	$1,830	$2,350
75212	$1,200	$1,260	$1,480	$1,850	$2,380
75214	$1,780	$1,870	$2,190	$2,740	$3,530
75215	$1,190	$1,240	$1,460	$1,830	$2,350
75216	$1,060	$1,110	$1,300	$1,630	$2,090
75217	$1,100	$1,150	$1,350	$1,690	$2,170
75218	$1,690	$1,770	$2,080	$2,610	$3,350
75219	$1,910	$2,000	$2,350	$2,940	$3,780
75220	$1,330	$1,400	$1,640	$2,060	$2,640
75221	$1,460	$1,530	$1,800	$2,260	$2,900
75222	$1,460	$1,530	$1,800	$2,260	$2,900
75223	$1,370	$1,440	$1,690	$2,120	$2,720
75224	$1,190	$1,240	$1,460	$1,830	$2,350
75225	$2,300	$2,410	$2,830	$3,550	$4,560
75226	$1,660	$1,740	$2,040	$2,560	$3,280
75227	$1,240	$1,300	$1,530	$1,920	$2,460
75228	$1,240	$1,300	$1,530	$1,920	$2,460
75229	$1,490	$1,570	$1,840	$2,310	$2,960
75230	$1,470	$1,540	$1,810	$2,270	$2,910
75231	$1,360	$1,430	$1,680	$2,110	$2,700
75232	$1,320	$1,390	$1,630	$2,040	$2,620
75233	$1,310	$1,370	$1,610	$2,020	$2,590
75234	$1,710	$1,800	$2,110	$2,640	$3,400
75235	$1,580	$1,650	$1,940	$2,430	$3,120
75236	$1,270	$1,330	$1,560	$1,950	$2,510
75237	$1,200	$1,260	$1,480	$1,850	$2,380
75238	$1,310	$1,370	$1,610	$2,020	$2,590
75240	$1,410	$1,470	$1,730	$2,170	$2,780
75241	$1,290	$1,360	$1,590	$1,990	$2,560
75242	$1,460	$1,530	$1,800	$2,260	$2,900
75243	$1,430	$1,500	$1,760	$2,210	$2,830
75244	$1,860	$1,950	$2,290	$2,870	$3,690
75246	$1,110	$1,170	$1,370	$1,720	$2,210
75247	$1,230	$1,300	$1,520	$1,900	$2,450
75248	$1,800	$1,880	$2,210	$2,770	$3,560
75249	$1,970	$2,070	$2,430	$3,050	$3,910

ZIP Code	*Efficiency*	*One-Bedroom*	*Two-Bedroom*	*Three-Bedroom*	*Four-Bedroom*
75250	$1,460	$1,530	$1,800	$2,260	$2,900
75251	$1,780	$1,870	$2,190	$2,740	$3,530
75252	$1,460	$1,530	$1,800	$2,260	$2,900
75253	$1,410	$1,480	$1,740	$2,180	$2,800
75254	$1,710	$1,800	$2,110	$2,640	$3,400
75261	$1,380	$1,470	$1,710	$2,260	$2,760
75270	$1,460	$1,530	$1,800	$2,260	$2,900
75287	$1,690	$1,770	$2,080	$2,610	$3,350
75313	$1,460	$1,530	$1,800	$2,260	$2,900
75315	$1,460	$1,530	$1,800	$2,260	$2,900
75336	$1,460	$1,530	$1,800	$2,260	$2,900
75339	$1,460	$1,530	$1,800	$2,260	$2,900
75342	$1,460	$1,530	$1,800	$2,260	$2,900
75354	$1,460	$1,530	$1,800	$2,260	$2,900
75355	$1,460	$1,530	$1,800	$2,260	$2,900
75356	$1,460	$1,530	$1,800	$2,260	$2,900
75357	$1,460	$1,530	$1,800	$2,260	$2,900
75360	$1,460	$1,530	$1,800	$2,260	$2,900
75367	$1,460	$1,530	$1,800	$2,260	$2,900
75370	$1,790	$1,880	$2,200	$2,760	$3,540
75371	$1,460	$1,530	$1,800	$2,260	$2,900
75372	$1,460	$1,530	$1,800	$2,260	$2,900
75374	$1,460	$1,530	$1,800	$2,260	$2,900
75376	$1,460	$1,530	$1,800	$2,260	$2,900
75378	$1,460	$1,530	$1,800	$2,260	$2,900
75379	$1,790	$1,880	$2,200	$2,760	$3,540
75380	$1,460	$1,530	$1,800	$2,260	$2,900
75381	$1,460	$1,530	$1,800	$2,260	$2,900
75382	$1,460	$1,530	$1,800	$2,260	$2,900
75390	$1,460	$1,530	$1,800	$2,260	$2,900
75398	$1,460	$1,530	$1,800	$2,260	$2,900
76051	$1,850	$1,970	$2,300	$3,040	$3,710
76065	$1,620	$1,700	$2,000	$2,510	$3,220

These amounts are not guaranteed rents.

NOTE: The above numbers are **maximum subsidy standards** in **rent and utilities** given DCHA Choice Voucher Program families per bedroom eligibility. All rents are subject to a Rent Reasonableness Survey and program rules. The Standard/ Fair Market Rent for unit size larger than 4-bedroom are calculated by adding 15% to the 4-bedroom Payment Standard / FMR for each extra bedroom.

Exhibit L. Landlord Briefing Supplement

DALLAS COUNTY
DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION

PHILIP HUANG, MD, MPH
DIRECTOR

Housing Choice Voucher Program

Landlord Briefing-Supplement

DEAR LANDLORD/AGENT:

Dallas County Housing Agency's records indicate that you or your organization is providing housing for tenants being assisted through the Section 8 HCV Program. The rental subsidy for the Section 8 HCV Program client, your tenant, is being made to you pursuant to the Housing Assistance Payment Contract for the Section 8 Tenant Based Assistance Housing Choice Voucher Program. Please be advised that monthly payments are subject to change or may discontinue depending on client's income and certain program requirements.

Shown below are some of the reasons for payments to be withheld by Dallas County. Please note that if the PHA determines that the owner is not entitled to the housing assistance payment or any part of it, the PHA, in addition to other remedies, may deduct the amount of the overpayment from any amounts due the owner (including amount due under any other Section 8 assistance contract). Please also note that you are required to return check/payment for tenants listed in the check stub that either do not reside in your property or did not reside in the property for the periods stated in the check stub.

Please acknowledge the receipt of this notice by completing the certification on back of this page by printing name, signing and dating the certification and by returning the certification to:

Dallas County Health and Human Services
Financial Administration
2377 N. Stemmons Freeway, Suite 263
Dallas, Texas 75207

Please also note that failure to return the certification will result in either delay in future payments or non-receipt of payments. You may call your tenant's case manager with any questions regarding this matter.

Sincerely,

Thomas Lewis
Assistant Director of Housing Choice Voucher Program

REASONS FOR PAYMENT WITHHOLDING

Overpayments: If the PHA determines that the owner is not entitled to the housing assistance payment or any part of it, the PHA, in addition to other remedies, may deduct the amount of the overpayment from any amounts due the owner (including amount due under any other Section 8 assistance contract). Typically, landlords will receive an overpayment notification with specific amounts to be repaid and a reason associated for the overpayment. The program has two ways to resolve the overpaid amounts as follows:

-- for active landlords: program will adjust the amount with the next payment issued (including amounts due under any other

Section 8 assistance contract).;

-- for inactive landlords: program will require immediate payback of the overpaid amount and failure to do so will result in the matter being referred to the district attorney's office for further investigation and action.

Backup Withholding: Based on Section 3406 of the Internal Revenue Code the Dallas County Auditor's Office (DCAO) is required to withhold a certain percentage (currently 28%) of the payments to landlords when landlords do not provide a correct Name/TIN combination. Once the DCAO receives the notice from the IRS, they are required to disregard any future Name/TIN combination that the landlord furnishes and will
require the landlords to obtain and send a Form SSA-7028 issued by the SSA office (for sole proprietors) or Letter 147C issued by the IRS (for non-sole proprietors). The backup withholding will continue till the aforementioned documents are furnished to the DCAO.

Withholding for Tax Delinquent Landlords: Landlords that are delinquent in paying their Dallas County property taxes will have their rental subsidy payments withheld until such time as all affected tax accounts are brought current. All rental subsidies coming due for payment, and withheld hereunder, shall be applied to satisfy amounts due to Dallas County for outstanding property taxes. Once the landlord's property tax accounts are brought current, rental subsidy payments shall resume consistent with the contractual obligations pertaining to the underlying tenancy.

Homestead Exemptions: Landlords claiming homestead exemptions, on rental property, and not residing in that property, will be held liable for the offence. The matter will be reported to the central appraisal district for further action and the landlord may be subject to paying back an amount retroactive to when the violation first occurred. Landlords are therefore strictly advised to adhere to the local tax laws when participating in this program.

PAYMENT CERTIFICATION

I, _____ have reviewed the housing assistance payment (HAP) contract (form HUD-52641) between my agency and Dallas County Housing Agency as agreed. I have also noted and agree with the above-stated reasons for payments to be withheld. I further certify, under the penalty of perjury, that the HAP paid to me or my agency are owed to the payee named on the payment check for the purpose of housing referenced tenant/s and that the tenant/s referenced on the check stub have or will receive full benefit of the payment thereof. I agree to re-pay the whole amount or a portion of the amount, if in the future, it is determined by Dallas County Housing Agency that the payment was an overpayment per the HAP contract/s.

_____

Signature of Landlord or Agent Date

For Dallas County Housing Agency use only:

Certification Receipt Date: _____

Staff Initial: _____

2377 N. Stemmons Freeway
Suite 700- LB 12
Dallas, Texas 75207-2710
Phone (214) 819-6090
Fax (214) 819-2828

Exhibit M. Closure of Overpayment Form

DALLAS COUNTY
HEALTH AND HUMAN SERVICES
FINANCIAL ADMINISTRATION

PHIL MPH
DIRECTOR

Closure of Overpayment Recovery Form

To: Case Manager, HCV Program

From: _____

Date: _____

Please be advised that Financial Administration attempted recovery of the overpayment amount for client, address and overpayment period stated herein:

Payee Information: _____
Name of Entity: _____
Tax ID: _____

Client Information:
Name: _____
Address: _____
Voucher #: _____

Overpayment Period: _____
_____Thru _____

Overpayment Amount: _____
$_____

Reason for Overpayment: _____

Document No: _____

After due process the aforementioned overpayment matter is being closed for the following reason/s:

Overpayment amount paid back in full (Amount: $ _____, Check No.: _____, Receipt Date _)

Overpayment amount recovered by canceling or stop-paying HAP for month/s in question

Overpayment amount not recoverable since determination made that landlord did not receive the following notification:

- Non-receipt of Notification of Client's Move-out by Landlord
- Non-receipt of Notification of Client's Income Change by Landlord
- Non-receipt of Notice of Client Termination by Landlord

Overpayment amount not recoverable due to other reasons (as noted):

Please sign and date this document, place a copy of this document in the client file and return the original to Financial Administration.

_____ _____
Case Manager Date

Exhibit N. TITLE VII--PROTECTING TENANTS AT FORECLOSURE ACT
Public Law 111-22, Effective Date May 20, 2009

SEC. 701. SHORT TITLE.
This title may be cited as the **`Protecting Tenants at Foreclosure Act of 2009'.**
SEC. 702. EFFECT OF FORECLOSURE ON PREEXISTING TENANCY.

(a) In General- In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to-
(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and
(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure-
(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or
(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1), except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.
(b) Bona Fide Lease or Tenancy- For purposes of this section, a lease or tenancy shall be considered bona fide only if-
(1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;
(2) the lease or tenancy was the result of an arms-length transaction; and
(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy.
(c) Definition- For purposes of this section, the term `federally-related mortgage loan' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).
SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.
Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended-
(1) by inserting before the semicolon in subparagraph (C) the following: `and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner-
(i) will occupy the unit as a primary residence; and
(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.'; and
(2) by inserting at the end of subparagraph (F) the following: `In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.'.
SEC. 704. SUNSET.
This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

Exhibit O. The HA Action to Reduce HCV Program Costs [PIH 2009-44]

The HA may take all actions to better manage HAP expenses when experiencing financial difficulties. The following is a non-exclusive list of HA cost savings actions.

a. Family Income Matching/Verification and Other Anti-Fraud Efforts. HA may accelerate efforts concerning income matching and income verification. HA may notify a family that enforcement action could be taken where under reporting of income is discovered.

b. Ensuring Reasonable Rents. HA does not have to wait until the HAP contract anniversary date to review owner rents and reduce them if warranted. The HA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units in accordance with the regulation at 24 CFR 982.507(b) and the HAP contract. The HA should ensure that owner rents do not exceed amounts charged for unassisted units in the same building or complex. The initial rent and all rent increases must comply with any State or local rent control limits. Further, any owner leasing promotions for unassisted tenants (e.g., the initial two months of occupancy are "rent free") must be taken into consideration in determining rent reasonableness.

   In accordance with the HAP contract, the HA must provide written notice to owners before reducing unreasonable rents. Rents may be reduced as early as the first of the following month. If the rent to owner is not reasonable as most recently determined by the HA, the owner must reduce the rent to the reasonable amount or the HAP contract must be terminated. In such cases, the family will be issued a HCV to find a new unit. (Movers, like new participants, are subject to the HA's current payment and occupancy standards.)

   Even if an owner's rent is reasonable, a HA could request owners to voluntarily agree to a temporary rent reduction or defer rent increases to help the HA avoid the termination of HAP contracts due to shortfalls in HCV funding. It is the owner's option to agree to such measures.

c. Ensuring Accurate Utility Allowances. The HA may always review its utility allowances more than annually to determine if they are too high. Changes in utility allowances may be implemented immediately, but not later than the next regularly scheduled reexamination of family income.

d. Portability Absorption. An initial HA may request that a receiving HA absorb portable families for which the initial HA is being billed. This may include the receiving HA retroactively absorbing families for which the initial HA was already billed and made payments. In these cases, the receiving HA reimburses the initial HA for payments made back to the effective date of the absorption. Both the receiving HA and initial HA must agree to this arrangement. This provision provides an exception to section 10 of Notice PIH 2008-43 on HCV Portability and Corrective Actions. (Section 10 provides that the receiving HA may not retroactively absorb families for which the receiving HA was previously billing for any time period that commences before 10 working days from the time the receiving HA notifies the initial HA of the absorption.)

e. Portability and Moves within the HA Jurisdiction. The HCV program regulations at 24 CFR 982.314(e)(1) provide that the HA may deny a family permission to move if the HA does not have sufficient funding for continued assistance. Denial of requests to move under this regulation may cover both portability moves to a higher cost area as well as moves within the HA jurisdiction to higher cost units.

   In order to deny a move, the HA must determine and demonstrate that based on the current funding available, it has insufficient funds to pay for higher subsidy amounts without having to terminate assistance of current program participants during the current fiscal year. In projecting whether there is sufficient funding available for the remainder of the fiscal year, the HA may use reasonable estimates to factor in conditions such as pending rent increases and attrition rates for families leaving the program. If this insufficient funding condition exists, the HA does not need a regulatory waiver from HUD to deny a request to move.

   In determining if the HA has sufficient funding available to approve a move, the HA must take into consideration its available budget authority (including any available NRA).

   HA may only deny a move where the requested move is voluntary (i.e., the family elects to move but is not required to move because of unaddressed Housing Quality Standards (**~~HQS~~ NSPIRE**) violations, owner re-occupancy of the unit, etc.). HA may not deny a move under 24 CFR 982.314(e)(1) if the move would reduce the family's subsidy cost to the HA (e.g., a family wished to move under portability to a lower cost area). HA may not deny a move to a higher cost area or unit as a cost-savings measure in order to admit additional families from its waiting list into the HCV program, regardless of whether the HA has unit months available to do so.

   A higher cost area is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or more generous subsidy standards (e.g., the receiving HA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial HA). In the case of portability moves, the HA needs to contact the receiving HA before denying the move to confirm that the receiving HA (a) will not absorb the family and (b) that the HAP costs would be higher. If the receiving HA is willing to absorb the family, there are no grounds to deny the portability move under 24 CFR 982.314(e) (1).

f. Interim Reexaminations. The HA could require families to report all increases in income between reexaminations and conduct more frequent interim income reviews for families reporting no income. The effective date of an annual or interim reexamination of family income is dependent upon HA policies.

g. Minimum Rent. The HA may increase the minimum rent to $50. The effective date for the increased minimum rent is dependent upon HA policy. HA could institute a policy for increases in family contribution to be effective immediately, rather than at the next annual reexamination.

h. Voucher Issuance. The HA may stop issuing turnover vouchers and consider pulling back outstanding vouchers for applicants searching for housing that have not yet resulted in an

executed HAP contract.

i. Subsidy Standards. The HA may revise subsidy standards that exceed minimum HUD requirements to reduce bedroom size eligibility in accordance with 24 CFR 982.402. Subsidy standards must be consistent with the ~~**HQS**~~ **NSPIRE** space requirements in 24 CFR 982.401(d). Per 24 CFR 982.401(d)(2)(ii), a dwelling unit must have at least one bedroom or living sleeping area for each two persons. Children of the opposite sex, other than the very young, may not be required to occupy the same bedroom or living/sleeping room.

   If a family leases a unit larger than the unit size on the voucher, the HA must ensure that the payment standard used to calculate the tenant share is based on the lower of the voucher unit size for which the family is eligible or the actual unit size leased. If the family size is reduced after admission, the HA must ensure that the correct payment standard is used in calculating the family rent portion. An "empty nester" single individual (or any household with similarly reduced member size) living in a 3-bedroom unit should have a 0- or 1-bedroom payment standard, not a 3-bedroom payment standard. If the unit size for which the family is eligible changes during the term of the HAP contract, the new unit size is applicable at the first regular reexamination following the change in accordance with 24 CFR 982.505(c)(5

j. Payment Standards. HA may opt to lower payment standards for all or some unit sizes. In the tenant-based HCV program, a lower payment standard applies immediately to all new admissions, all movers, and families remaining in their units with a new HAP contract (e.g., when the owner offers or requires a new lease). For all other HCV participants, decreased payment standard amounts are not applied until the second regular reexamination after the payment standard is lowered (see 24 CFR982.505(c)(3)). The delayed applicability of a lower payment standard is a regulatory, not statutory, requirement. HA experiencing financial difficulties may request a regulatory waiver for good cause so that reduced payment standards may be applied sooner than provided by regulation.

HA waiver requests should, at a minimum, include the calculation used to arrive at the projected shortfall in funding and cost-savings measures the HA has already taken or will take in the future.

HA requests for approval of payment standards below 90 percent of the fair market rent (FMR) for any unit size may be approved by HUD field offices. However, 24 CFR 982.503(d) states that HUD will not approve such payment standard amounts if the family share for more than 40 percent of voucher participants exceeds 30 percent of monthly adjusted income. This is a regulatory, not statutory, requirement. HA experiencing financial difficulties may request that HUD Headquarters waive this requirement for good cause, such as the inability of a HA to avoid terminating the HAP contracts of current participants or withdrawing vouchers from families searching for housing without the proposed reduction in payment standards. Waiver requests should include an analysis by the HA on the impact that the reduction in payment standards below the basic range will have on a family's opportunity to lease units throughout the HA jurisdiction.

In determining whether to approve HA requests for payment standard waivers of 24 CFR 982.503(d) or 982.505(c)(3), HUD will review and take into consideration the HA current rent burden and the impact of the proposed change on the HA participants. In addition, as a condition of the waiver approval, HUD may require the HA to raise payment standards and apply the new payment standard amounts immediately at such time that the HA receives additional funding.

HA should note that they are not required to increase (or decrease) the dollar amount of their payment standards based on changes in applicable FMRs that take effect each Federal Fiscal Year on October 1st unless the change in FMR results in the HA payment standard being outside the basic range of 90 – 110 percent of FMR by bedroom size. A HA that anticipates that any of its current payment standards will be below 90 percent of the new final FMRs and that does not wish to increase its payment standard for that bedroom size may request a waiver in advance per the procedure in the prior paragraph.

k. Biennial Inspections - The HA may conduct biennial inspections. This will reduce the administrative and financial burden on HA's by reducing the number of inspections that the HA's are required to perform.

l. If DCHA must terminate HAP contracts due to insufficient funding, DCHA will do so in accordance with the following criteria and instructions.
Elderly and disabled families shall not be terminated. Participants contracts are being terminated and participants are being placed back on the waiting list, until sufficient funds are available.

- Non-elderly, non-disabled households who are able to pay 90% to 100% of their monthly-adjusted income towards rent would be terminated First.
- Non-elderly, non-disabled households who are able to pay 80% to 89% of their monthly-adjusted income towards rent would be terminated Second.
- Non-elderly, non-disabled households who are able to pay 70% to 79% of their monthly-adjusted income towards rent would be terminated Third.
- Non-elderly, non-disabled households who are able to pay 60% to 69% of their monthly-adjusted income towards rent would be terminated Fourth.
- Non-elderly, non-disabled households who are able to pay 50% to 59% of their monthly-adjusted income towards rent would be terminated Fifth.

The criteria for reinstating participants will be the reverse order methodology.

- Non-elderly, non-disabled households who are able to pay 50% to 59% of their monthly-adjusted income towards rent would be reinstated First.
- Non-elderly, non-disabled households who are able to pay 60% to 69% of their monthly-adjusted income towards rent would be reinstated Second.
- Non-elderly, non-disabled households who are able to pay 70% to 79% of their monthly-adjusted

income towards rent would be reinstated Third.

- Non-elderly, non-disabled households who are able to pay 80% to 89% of their monthly-adjusted income towards rent would be reinstated Fourth.
- Non-elderly, non-disabled households who are able to pay 90% to 100% of their monthly-adjusted income towards rent would be reinstated Fifth.

Special purpose vouchers (e.g. VASH, PBV, and Mainstream Voucher) shall follow the same criteria as the Housing Choice voucher Program.

Exhibit P. Dallas County Housing Agency Code of Conduct

Housing Urban Development (HUD) HUD's Section 8 24 C.F.R. 982.161

Conflicts of Interest - Section 8 24 C.F.R. 982.161 provides:

(a) Neither the HA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

(1) Any present or former member of officer of the HA (except a participant commissioner);

(2) Any employee of the HA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the program;

(3) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or

(4) Any member of the Congress of the United States.

(b) Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest to the HA and HUD.

(c) The conflict of interest prohibition under this section may be waived by the HUD field office for good cause. (Emphasis added.)

The HA should not execute the HAP contract until the HUD Field Office makes a decision on the waiver request.

Sec. 86-758. Conflicts of interest

(a) In order to avoid potential conflicts of interest or the appearance of conflicts of interest, no officer or employee of the county shall:

(1) Have a substantial interest, investment, ownership or other involvement in any entity or firm which supplies goods or services to the county;

(2) Accept from or give to any entity, firm or person doing or seeking to do business directly or indirectly with the county, including agents or representatives of such entity, firm or person, any personal gift; loan of any type; entertainment; trips, services, or money in any amount;

(3) Receive directly or indirectly any pecuniary interest from a contract or other agreement entered into by the county;

(4) Engage in any other business to an extent which interferes with their performance of duties as a county official or employee; or

(5) Use in any matter their public office or position for personal gain including the acceptance or dispensing of any special favors, privileges or benefits.

(b) The county officials or employees having reservations or questions regarding possible conflicts of interest should request a legal opinion from the district attorney's office.

(c) The county officials and employees may be requested to submit an annual conflict of interest-disclosure statement (Exhibit EC) to the commissioners court.

(d) All elected officials and employees of the county will comply with V.T.C.A., Penal Code Ch. 36 that requires that no gift be given as a consideration for some exercise of official discretion. County employees shall not accept gifts from contractors, vendors or other persons who are employed by or who deal with the county. These rules do not apply to gifts exempted by V.T.C.A., Penal Code § 36.10, calendars, folders, pens, notepads and similar articles that bear the donor's advertising, nor do they apply to purely personal gifts between relatives and friends.

(e) All elected officials and candidates required to file financial disclosure statements by V.T.C.A., Local Government Code § 159.001 et seq., shall file an annual financial statement with the county auditor, including the reporting of gifts, as required by that statute.

(f) All elected county officials shall comply with V.T.C.A., Election Code title 15 and all state-mandated reporting of gifts.

(g) The county officials or employees having reservations or questions regarding possible conflicts of interest should request a legal opinion from the district attorney's office.

(h) Nothing in this division shall prohibit the solicitation and or acceptance of contributions and or gifts as authorized by the Texas Election Code.

(Admin. Policy Manual, § E (18.02--18.09); Ord. No. 2003-1373, 8-5-2003)

Cross references: Conflicts of interest re general government operations policy, internal organizational guidelines, § 74-741 et seq.

Sec. 86-759. Personal financial disclosure reporting

(a) The county commissioners court by the adoption of this section extends personal financial disclosure reporting to the county sheriff, county tax assessor/collector, county clerk, district clerk, county treasurer, county auditor, county purchasing agent, all constables, all justices of the peace and county employees occupying the positions identified in the list below.

EMPLOYEE PERSONAL FINANCIAL DISCLOSURE REPORTING LIST

(1) Commissioners court administrator.

(2) Assistant administrator for operations.

(3) Assistant administrator for governmental affairs.

(4) Chief information officer.

(5) Director of security and emergency management.

(6) Director of health and human services.

(7) Director of human resources.

(8) Director of the institute of forensic sciences.

(9) Director of juvenile services.

(10) Director of budget and evaluation.

(11) Director of public works.

(12) Chief public defender.

(13) Veterans' services officer.

(b) Such financial disclosure reporting shall be the same in all regards as that required by V.T.C.A., Local Government Code Ch. 159, sub Ch. A which applies to the county judge, county commissioners and county attorney.

(Ord. No. 2003-1944, 10-21-2003)

Cross references: Elected officials and candidates required to file financial disclosures, §§ 74-742(e), 86-758(e).

ARTICLE VII. DISCIPLINE / DISCIPLINARY ACTION

Sec. 86-971. Generally.

(a) All employees shall be subject to disciplinary penalties for any action that is determined not to be in the interest of, or benefit to, the county.

(b) Except for dismissals during the probationary period as provided in section 86-271, all written reprimands, suspensions, demotions or dismissals shall be subject to provisions of article IV, division 7, subdivision III of this chapter, dismissal, and article VIII of this chapter, grievance procedures.

(c) Cause for verbal warning, written reprimand, suspension, demotion or dismissal shall include, but not be limited to, the following offenses:

(1) Incompetency: non-satisfactory performance of assigned tasks;

(2) Poor attendance: excessive absence and/or tardiness;

(3) Insubordination: willful failure to perform assigned tasks;

(4) Dishonesty: stealing county property or funds, misuse of county property or funds,

(5) or any falsifying act detrimental to the county or its employees;

(6) Failure to notify immediate supervisor of an absence;

(7) Conviction of a criminal offense;

(8) Misuse of leave privileges;

(9) Disturbance: fighting or otherwise disrupting the harmonious relations between employees;

(10) Work related use or possession of alcohol or drugs: being under the influence or possession of intoxicating beverages or controlled substances such as narcotics or drugs of any kind;

(11) Sexual harassment; or

(12) Poor job performance

(Admin. Policy Manual, § A(11.00--11.04); Ord. No. 2000-1287, §§ 11.00--11.02, 6-27-2000; Ord. No. 2001-2359, 12-11-2001)

Sec. 86-972. Procedure for disciplinary action

(a) Any act on the part of a county employee found to be in violation of these rules shall be subject to disciplinary action, i.e. verbal warning, written notice of employee's warning, reprimand, suspension, demotion or dismissal. The particular discipline in any case will be determined by a number of factors such as the severity of the act and the prior history of the employee.

(b) Suspensions for non-exempt employees shall be for a set period ranging from one day to two weeks depending on the type of offense. If an exempt employee is suspended for reasons other than a major safety violation, the suspension cannot be for a period of less than one week, but shall be handed out in increments of workweeks, beginning the first day of the employee's normally scheduled workweek. Suspensions for a major safety violation may be for any period of time. A major safety violation is any action which poses a reasonable chance of causing injury to persons and/or damage to property.

(c) An employee may be suspended during an investigation or review into suspected or alleged improprieties. With prior approval of commissioners' court, such suspensions may be with pay. An employee will continue to receive and have access to all benefits, while suspended during an investigation or review. A suspended employee will not be eligible to use accrued leave during the suspension; however, leave will continue to accrue.

(d) An employee suspended without pay after the completion of an investigation or review by an elected official/department head or designee will not continue to receive or have access to benefits and will be processed as though the employee is on leave of absence without pay. (For example: no pay for holidays, no leave accruals, no subsidy to pay insurance premiums, etc.). The suspended employee will be responsible for the entire insurance premium during their period of absence, including the county's portion.

(e) A suspended employee reinstated to employment by the elected official/department head following a sustained disciplinary action will not be eligible to receive back pay or benefits, with the exception of suspensions which have received prior approval in accordance with subsection (c) of this section. A sustained disciplinary action is one that has been through the appeal process with a final decision issued by the appropriate deciding body (civil service commissions, elected/appointed officials, etc.).

(f) A suspended employee whose disciplinary action is not sustained following an investigation or review shall be reinstated. The appropriate deciding body (civil service commissions, elected

officials/department heads, etc.) may then petition commissioners' court for back pay and all applicable benefits.

(g) Each disciplinary action shall be in writing ("statement of discipline"), and delivered to the employee at the time disciplinary action is administered, or at the earliest possible time immediately after disciplinary action has been taken.

A statement of discipline should advise the employee of the following:

(1) An alleged action that caused the need for discipline;

(2) The specific policy or rule violated;

(3) Statement of corrective action required;

(4) Nature of discipline being enforced;

(5) Except in the case of dismissal, a statement of discipline or action that will be taken if any future violations of the rules occur;

(6) Statement of employee's rights to appeal disciplinary action and conditions under which he/she may appeal.

(h) Each statement of discipline should be signed by the elected official/department head/supervisor.

(i) The employee to be disciplined shall acknowledge receipt of the statement of discipline. In the event of suspension, a copy of the statement of discipline form should also be sent to the county auditor for review of employee status.

(j) A copy of the statement of discipline shall be forwarded to the human resources management/civil service department for inclusion in the employee's personnel file.

(k) Only elected officials/department heads or their designees have the authority to suspend, demote, or terminate an employee. Supervisors and managers shall review these planned actions with the elected official/department head or their designees prior to discussion with the employee.

(l) The human resources management/civil service department is available to assist employees and the managerial staff in resolving disciplinary issues.

(Admin. Policy Manual, § A (11.05--11.19); Ord. No. 2000-1287, §§ 11.03--11.12, 6-27-2000; Ord. No. 2001-2359, 12-11-2001; Ord. No. 2009-0090, 1-13-2009)

Exhibit Q. HUD-VASH Program

Section 8 Housing Choice Vouchers:
Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program

I. Background

Since Fiscal Year (FY) 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans authorized by section 8(o)(19) of the United States Housing Act of 1937 (1937 Act) (42 U.S.C. 1437f(o)(19)). The initiative, known as the HUD-VASH program, was initially authorized by Division K, Title II, of the Consolidated Appropriations Act, 2008 (Pub. L. 110-161, approved December 26, 2007) (``2008 Appropriation Act'') (see proviso (7) under the heading ``Tenant-Based Rental Assistance''). Each annual
HUD appropriation since FY 2008 has continued to authorize this program.\1\ The HUD-VASH program combines HCV rental assistance for homeless veterans with case management and clinical services provided by the VA through its community medical centers. Since Implementation of the program, ongoing VA case management, health, and other supportive services have been made available to homeless veterans at more than 300 VA Medical Center (VAMC) supportive services sites and Community-Based Outpatient Clinics (CBOCs) across the nation. The HUD-VASH program is a key component of reducing homelessness among veterans outlined in the Administration's Federal Strategy to Prevent and End Homelessness.

\1\ Omnibus Appropriations Act, 2009, (Pub. L. 111-8, approved March 11, 2009); Consolidated Appropriations Act, 2010 (Pub. L. 111-117, approved December 16, 2009); the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10, approved April 15, 2011); and Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112-55, approved November 18, 2011).

The appropriation acts funding the HUD-VASH program provide that HUD is not required to distribute assistance competitively. Rather, these acts require that HUD-VASH funding be distributed to PHAs that partner with eligible VAMCs, or other entities as designated by the VA
Secretary, and based on the geographical need for such assistance, as identified by the VA Secretary. The appropriation acts also provide that funding be distributed based on PHA administrative performance, and other factors as specified by the Secretary of Housing and Urban Development (HUD Secretary) in consultation with the VA Secretary.

Based on this language, the allocation for HUD-VASH vouchers has been a collaborative, data-driven effort conducted by HUD's Offices of Community Planning and Development (CPD) and Public and Indian Housing (PIH), and the VA. The process relies primarily on three sets of data:
(1) HUD's point-in-time data submitted by Continuums of Care; (2) VAMC data on contacts with homeless veterans; and (3) performance data from local PHAs and VAMCs. As noted, the VA, in consultation with HUD, has identified more than 300 VAMCs and CBOCs willing to participate in the

program since 2008. There is at least one site in each of the 50 states, the District of Columbia, Puerto Rico, and Guam.

HUD, in consultation with the VA, and in consideration of a PHA's administrative performance, identified eligible PHAs located in the jurisdiction of the VAMCs or CBOCs and invited them to apply for HUD-VASH vouchers. The number of HUD-VASH vouchers awarded to each PHA was determined by HUD and the VA. Currently, between 25 and 35 rental vouchers have been awarded for each professional, full-time HUD-VASH case manager in the local VA facility. A PHA that participates in the HUD-VASH program must partner with its VAMC or CBOC. Additional information on program requirements and procedures may be found on HUD's Web site at www.HUD.gov.

II. Special Rules for the HUD-VASH Voucher Program

This section of the notice sets forth the design features of the HUD-VASH vouchers, including the eligibility of families, portability, case management, and the turnover of these vouchers. This notice replaces and revises the special rules published by HUD in a Federal Register notice on May 6, 2008 (73 FR 25026). The appropriations acts funding the HUD-VASH program authorize the HUD Secretary, in consultation with the VA Secretary, to waive, or specify alternative requirements for, any provision of any statute or regulation that the HUD Secretary administers in connection with the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective delivery and administration of such voucher assistance. Assistance made available for this program must, however, continue to remain available for homeless veterans upon turnover.

This notice outlines the waivers or alternative requirements determined by the HUD Secretary to be necessary for the effective delivery and administration of the HUD-VASH program. These waivers or alternative requirements are exceptions to the normal HCV requirements, which would otherwise govern the provision of HUD-VASH assistance. In addition, a PHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program. These requests may be submitted to the HUD Secretary for review and decision through the HUD Assistant Secretary for Public and Indian Housing.

HUD-VASH vouchers under this part are administered in accordance with the HCV tenant-based rental assistance regulations set forth at 24 CFR part 982. In the HCV program, the PHA pays monthly rental subsidies so that eligible families can afford in decent, safe, and sanitary condition. HUD provides housing assistance funds to the PHA and funds the PHA to administer the program.

Under the HCV tenant-based program, families select and rent units that meet program housing quality standards (~~**HQS**~~ **NSPIRE**). If the PHA approves a family's unit and tenancy, the PHA contracts with the owner to make rent subsidy payments (housing assistance payments) (HAP) directly to the owner on behalf of the family, on a monthly basis. The family enters into a lease with the Owner and pays its share of the rent to the owner in accordance with the lease. The HAP contract between the PHA and the owner covers only a single unit and a specific assisted family. If the family moves out of the leased unit, the HAP contract with the owner terminates. The family may generally move to another unit with

continued assistance, so long as the family is complying with program requirements.

Unless expressly herein, all regulatory requirements and HUD directives regarding the HCV tenant-based program are applicable to HUD-VASH vouchers, including the use of all HUD-required contracts and other forms. The PHA's local discretionary policies adopted in the PHA's written administrative plan apply to HUD-VASH vouchers, unless such local policy conflicts with the requirements of the HUD-VASH vouchers outlined herein.

PHAs are required to maintain records that allow for the easy identification of families receiving HUD-VASH vouchers. PHAs must identify these families in the Public and Indian Housing Information Center (PIC). This recordkeeping will help ensure, in accordance with appropriations renewal language, that HUD-VASH vouchers that are in use will remain available for homeless veterans upon turnover.

The alternative requirements established in this notice apply to all PHAs that administer HUD-VASH vouchers, including those that have not received an allocation of HUD-VASH vouchers, but which administer them as a receiving PHA under the portability feature of the HCV program.

This notice does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

a. Family Eligibility and Selection

HUD-VASH-eligible families are homeless veterans and their families. The appropriations acts funding the HUD-VASH program authorize the HUD Secretary, in consultation with the VA Secretary, to waive, or specify alternative requirements for, any provision of any statute or regulation that the HUD Secretary administers in connection with the use of funds made upon a finding by the HUD Secretary that such waivers or alternatives are necessary for the effective administration and delivery of voucher assistance (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). The December 17, 2007, Explanatory Statement for the 2008 Appropriation Act states, ``The Appropriations Committees expect that these vouchers will be made available to all homeless veterans, including recently returning veterans'' (153 Cong. Rec. H16514 (daily ed., Dec. 17, 2007)).

Section 8(o)(19) of the 1937 Act, which requires homeless veterans to have chronic mental illnesses or chronic substance-use disorders with required treatment of these disorders, as a condition of receipt of HUD-VASH assistance, is waived.

VA HUD-VASH case managers will refer HUD-VASH-eligible families to the PHA for the issuance of vouchers. The PHA must accept referrals from their VA partner. Written documentation of these

referrals must be maintained in the tenant file by the PHA. Therefore, the PHA will not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. Accordingly, section 8(o)(6)(A) of the 1937 Act (42 U.S.C. 1437f(o)(6)(A)), in regard to preferences, is waived to

provide for the effective administration of the program. In addition, 24 CFR 982.202, 982.204, and 982.207, relating to applicant selection from the waiting list and local preferences, are also waived. Sections 982.203, 982.205, and 982.206 regarding special admissions, cross-listing of the waiting list, and opening and closing the waiting list do not apply to the HUD-VASH program.
VA HUD-VASH case managers will screen all families in accordance with VA screening criteria. By agreeing to administer the HUD-VASH program, the PHA is relinquishing its authority to determine the eligibility of families in accordance with regular HCV program rules and PHA policies. Specifically, under the HUD-VASH program, PHAs will not have the authority to screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 (broad denial for violations of HCV program requirements) and 982.553 (specific denial for criminals and alcohol abusers), with one exception: PHAs will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. However, unless the family member that is subject to lifetime registration under a state sex offender registration program is the homeless veteran (which would result in denial of admission for the family), the remaining family members may be served if the family agrees to remove the sex offender from its family composition. Accordingly, the Department is exercising its authority to waive 42 U.S.C. 1437d(s); 42 U.S.C. 13661(a), (b), and (c); and 24 CFR 982.552 and 982.553 in regard to denial of admission, with the exception of Sec. 982.553(a)(2)(i), which requires denial of admission to certain registered sex offenders.

When adding a family member after the HUD-VASH family has been admitted to the program, the rules of Sec. 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular screening criteria in doing so.

In regard to verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual along with other identifying information of the individual, is acceptable in accordance with 24 CFR part 5.216(g). In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a SSN card. These documents must also be accepted for proof-of-age purposes in lieu of birth certificates or other PHA-required documentation. Please note that veterans are also issued photo identification cards by the VA. If such identification is required by the PHA, these cards must be accepted by the PHA in lieu of another type of government-issued photo identification. These cards may also be used to verify SSNs and date of birth.

Civil rights requirements cannot be waived. The HUD-VASH program is administered in accordance with applicable Fair Housing requirements. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age

Discrimination Act. These requirements prohibit discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or disability.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, HUD's reasonable accommodation standards requirements apply. These standards require PHAs to make a reasonable adjustment to rules, policies, practices, and procedures when it may be necessary in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy a dwelling, the common areas of a dwelling, or participate in or access a recipient's programs and activities. These standards extends to various aspects of program implementation, including, for example, denial or termination of assistance, initial search term of the HCV, initial lease term, and informal reviews and hearings.

b. Termination of Assistance

HUD has not established any alternative requirements for termination of assistance for HUD-VASH participants. However, prior to terminating HUD-VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) and consider all
relevant circumstances of the specific case, including granting reasonable accommodations for persons with disabilities in accordance with 24 CFR part 8, as well as including the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination, prior to determining whether to terminate assistance. In addition, a HUD-VASH participant family must not be terminated after admission, for a circumstance or activity that occurred before admission and was known to the PHA, but could not be considered at the time of admission due to the HUD-VASH Operating Requirements. The PHA can terminate the family's assistance only for program violations that occur after the family's admission to the voucher program.

c. Income Eligibility

The PHA must determine income eligibility for HUD-VASH families in accordance with 24 CFR 982.201. Income-targeting requirements of section 16(b) of the 1937 Act, as well as 24 CFR 982.201(b)(2), do not apply for HUD-VASH families so that participating PHAs can effectively serve the eligible population specified in the various appropriations acts; that is, homeless veterans, who may be at a variety of income levels, including low-income. The PHA may, however, choose to include the admission of extremely low-income HUD-VASH families in its income targeting numbers for the fiscal year in which these families are admitted. In conformance with normal program rules, PHAs may not deny admission to a family with zero income and must consider hardship circumstances before charging a minimum rent in accordance with 24 CFR 5.630(b).

d. Initial Term of the HCV

Recognizing the challenges that HUD-VASH participants may face with their housing search, HUD-VASH vouchers must have an initial search term of at least 120 days. Therefore, Sec. 982.303(a), which states that the initial search term must be at least 60 days, shall not apply, since the initial term

must be at least 120 days. Any extensions, suspensions, and progress reports will remain under the policies in the PHA's administrative plan, but will apply after the minimum 120-day initial search term.

e. Initial Lease Term

Under the HCV program, voucher participants must enter into an initial lease with the owner for one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice. To provide a greater range of housing opportunities for HUD-VASH voucher holders, initial leases may be less than 12 months; therefore, both section 8(o)(7)(A) of the 1937 Act (42 U.S.C. 1437f(o)(7)(A)) and 24 CFR 982.309(a)(2)(ii) are waived.

f. Ineligible Housing

HUD-VASH families will be permitted to live on the grounds of a VA facility in units developed to house homeless veterans. Therefore, 24 CFR 982.352(a)(5), which prohibits units on the physical grounds of a medical, mental, or similar public or private institution, is waived for that purpose only.

g. Mobility and Portability of HUD-VASH Vouchers

An eligible family that is issued a HUD-VASH voucher must receive case management services provided by the partnering VAMC or CBOC. Therefore, special mobility and portability procedures must be established. HUD-VASH participant families may reside only in those jurisdictional areas that are accessible to case management services as determined by VA HUD-VASH case managers at the partnering VAMC or CBOC. Since the case managers will be identifying homeless veterans eligible to participate in the HUD-VASH program, section 8(r)(1)(B)(i) of the 1937 Act (42 U.S.C. 1437f(r)(1(B)(i)), which restricts portability in cases where the family did not reside in the jurisdiction of the PHA at the time of application for HCV assistance, and 24 CFR 982.353(a), (b), and (c), which affects where a family can lease a unit with HCV assistance, do not apply. HUD may publish public housing notices from time to time to further explain portability requirements under the HUD-VASH program.

Portability Moves Within Same Catchment Area (or Area of Operation) Where Case Management Is Provided by the Initial PHA's Partnering VAMC or CBOC

If the family initially leases up, or moves, under portability provisions, but the initial PHA's partnering VAMC or CBOC will still be able to provide the necessary case management services due to the family's proximity to the partnering VAMC or CBOC, the receiving PHA must process the move in accordance with the portability procedures of 24 CFR 982.355. However, since the initial PHA must maintain records on all HUD-VASH families receiving case management services from its partnering VAMC or CBOC, receiving PHAs without a HUD-VASH program must bill the initial PHA. Therefore, 24 CFR 982.355(d), which gives the receiving PHA the option to absorb the family into its own HCV program or bill the initial PHA, is not applicable.

Portability Moves Within Same Catchment Area Where Both PHAs Have Received HUD-VASH Vouchers

The receiving PHA may bill the initial PHA or absorb the family into its own HUD-VASH program if the VAMC or CBOC providing the initial case management agrees to the absorption by the receiving PHA and the transfer of case management. The absorption will also entail the availability of a HUD-VASH voucher and case management provision by the receiving PHA's partnering VAMC or CBOC.

Portability Moves Where Receiving PHA Is Beyond Catchment Area

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or CBOC to provide case management services, the VAMC must first determine that the HUD-VASH family could be served by another VAMC or CBOC that is participating in this program, and the receiving PHA must have a HUD-VASH voucher available for this family. In these cases, the families must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH program) or as a portability move-in (after an initial leasing in the initial PHA's jurisdiction). Upon absorption, the initial PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH-eligible family, as determined by the partnering VAMC or CBOC, and the absorbed family will count toward the number of HUD-VASH slots awarded to the receiving PHA.

When the receiving PHA completes the form HUD-50058 under the scenarios above, the action type that must be recorded on line 2a is ``1'' for a new admission (a family that is new to the HCV program) or ``4'' for a portability move-in (a family that was previously leased up in the jurisdiction of the initial PHA). Whether the family is a new admission or a portability move-in, in section 12 of the HUD-50058 form, line 12d is always marked ``Y.'' In cases of portability where families move out of the catchment area of the initial PHA, line 12e must be 0, since the family must be absorbed, and line 12f must be left blank.

Portability Moves When Case Management Is No Longer Required

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply. When completing the HUD-50058, the family will continue to be coded ``VASH'' on line 2n unless the initial PHA issues the family a regular voucher, in which case the code will no longer apply.

h. Case Management Requirements

The VAMC or CBOC's responsibilities include: (1) the screening of homeless veterans to determine whether they meet the HUD-VASH program participation criteria established by the VA national office; (2) referrals of homeless veterans to the PHA; (3) providing appropriate treatment and supportive services to potential HUD-VASH program participants, if needed, prior to PHA issuance of rental vouchers; (4) providing housing search assistance to HUD-VASH participants with rental vouchers; (5) identifying the social service and medical needs of HUD-VASH participants and providing, or ensuring the provision of, regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and (6) maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive the case management services noted above from the VAMC or CBOC. Therefore, a HUD-VASH participant family's HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or CBOC. However, a VAMC or CBOC determination that the participant family no longer requires case management is not grounds for termination of assistance. In such a case, at its option, the PHA may offer the family continued HCV assistance through one of

its regular vouchers, to free up the HUD-VASH voucher for another eligible family referred by the VAMC or CBOC. If the PHA has no voucher to offer, the family will retain its HUD-VASH voucher until such time as the PHA has an available voucher for the family. If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

i. Turnover of HUD-VASH Vouchers

In accordance with the appropriations acts cited herein, upon turnover, HUD-VASH vouchers must be issued to eligible families as identified by the VAMC or CBOC, as noted above.

j. Moving-to-Work (MTW) Agencies

HUD-VASH vouchers must be administered in accordance with this notice and are not eligible for fungibility under a PHA's MTW agreements. HUD-VASH vouchers must be reported on separately from vouchers under the agency's MTW Agreement.

k. Project-Based Assistance

Although HUD-VASH vouchers are tenant-based rental assistance, HUD will consider, on a case-by-case basis, requests from the PHA (with the support of the applicable Director of the VAMC or Veterans Integrated Service Network (VISN)) to project-base these vouchers in accordance with 24 CFR part 983. Public housing notices will be issued from time to time to address this issue.

l. Section Eight Management Assessment Program (SEMAP)

Since the leasing of HUD-VASH vouchers will be dependent on referrals from the VAMC or CBOC, the unit months and budget authority associated with these vouchers will not be included in the SEMAP leasing indicator. Therefore, 24 CFR 985.3(n)(1)(i) and (ii) are waived. However, utilization of these vouchers will be monitored separately through HUD systems.

m. Reallocation of HUD-VASH Vouchers

Under the appropriation acts cited herein, Congress has directed VA and HUD to allocate HUD-VASH

vouchers based on geographical need for such assistance. In recognition that there may be changes and shifts in the population of homeless veterans over time, it may become necessary for HUD to reallocate HUD-VASH vouchers between PHAs regardless of the jurisdictional boundaries of the PHAs, in order to better address the current need of homeless veterans. In addition, HUD may reallocate vouchers due to poor performance by the PHA and/or the VAMC in serving this population, as evidenced by a lack of adequate referrals or inadequate voucher utilization rates after sufficient warning and cure time has been provided by HUD and/or the VA. Therefore, HUD-VASH vouchers may be reallocated among PHAs within the same state or between PHAs in different states based on the utilization of previously awarded
HUD-VASH vouchers and current geographic need as determined by the VA and HUD.

n. ~~HQS~~ NSPIRE Initial Inspections

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing, in order to maintain a pool of eligible units. If a HUD-VASH family selects a unit that passed a **~~HQS~~ NSPIRE** inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (form HUD-52517), the unit may be approved, provided that it meets all other conditions under 24 CFR Section 982.305. However, the veteran must be free to select his/her unit and cannot be steered to these units.

III. Reporting Requirements

A new code (VASH) was established for use on line 2n of the Family Report (form HUD-50058), which indicates whether the family participates in ``other special programs.'' The information collection requested on HUD-50058 has been approved by the Office of Management and Budget (OMB) and given OMB control number 2577-0083. No person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid OMB control number. This code must remain on the HUD-50058 for the duration of the HUD-VASH family's participation in the program. In addition, PHA that administers the HUD-VASH voucher on behalf of the family (regardless of whether the PHA has received an allocation of HUD-VASH vouchers) must enter and maintain this code on the HUD-50058.

Data will also be captured in the Voucher Management System on monthly leasing and expenditures. For any additional systems reporting requirements that may be established, HUD will provide further guidance.

HUD-VASH REFERENCE GUIDE REQUIREMENT

Summary of requirements in PIH Notices and the Federal Register notice,
Revised Implementation of the HUD-VA Supportive Housing Program, published March 23, 2012.

Topic	HUD-VASH Operating Requirements
PHA Eligibility	Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based up on data compiled by HUD and the VA. PHA administrative performance also is taken into consideration.
	When Congress funds a new allocation of HUD-VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers. Only those PHAs invited to apply receive HUD-VASH vouchers.
Participant Eligibility	Eligible families are homeless Veterans and their families that are referred to participating PHAs by the PHAs' partnering VAMCs or CBOCs. Before making referrals to PHAs, VA staff screen families according to the VA's screening criteria and in compliance with federal nondiscrimination and civil rights laws. *See* 24 CFR 5.105(a) and 24 CFR 982.53.
	DD-214 certificates and VA-verified Applications for Health Benefits must be accepted as verification of SSNs and birthdates. VA identification cards must be accepted as government-issued photo identification, and they can also verify SSNs and birthdates.
	PHAs screen only for income eligibility and lifetime registration under state sex offender registration programs. However, when new family members are added after the Veteran is a participant, 24 CFR 982.551(h)(2) and regular PHA screening criteria apply.
	The income targeting requirement of 75% of families being extremely low-income does not apply to HUD-VASH.
~~HQS~~ NSPIRE	PHAs may pre-inspect units that Veterans may be interested in leasing. If a family selects a unit that passed a **~~HQS~~ NSPIRE** inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be
Leasing	Families issued a HUD-VASH voucher have at least 120 days to search for a unit.
	Families issued a HUD-VASH voucher may move under portability, even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied.
	HUD-VASH families may enter into an initial lease with an owner for less than 12 months.
	HUD-VASH families may live on the grounds of a VAMC in units owned by the VA.
Case Management	Veterans must agree to participate in case management in order to receive a HUD-VASH voucher. HUD-VASH assistance may be terminated if the family refuses, without good cause, to participate in required case management as verified by the VAMC
	A VAMC's determination that case management is no longer needed is not grounds for termination of HCV assistance. In such cases, a family may be offered a regular voucher to free up the HUD-VASH voucher, or they may keep their HUD-VASH voucher.
Portability - within initial VAMC's catchment area	A HUD-VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. The VA must always be consulted prior to a move to ensure that case management will continue to be provided.
	If the receiving PHA does not have a HUD-VASH program, they must bill the initial PHA. If the receiving PHA does have a HUD-VASH program, they may absorb the family or bill the initial PHA.
Portability - outside initial VAMC's catchment area	A HUD-VASH family can move if the referring VAMC confirms that the new VAMC has an available case management slot.
	The receiving PHA must have a HUD-VASH program and the HUD-VASH family must be absorbed.

Portability - when case management no longer required	If a HUD-VASH family wishes to move under portability and the Veteran no longer requires case management, they do not need to move to a community in which case management can be provided. The receiving PHA does not need to be a HUD-VASH PHA, and they may choose to bill the initial PHA or absorb the Veteran with a regular voucher. If they choose to bill the initial PHA, they must enter/maintain "VASH" on line 2n of form HUD-50058.
Voucher	Upon turnover, HUD-VASH vouchers must be issued to eligible Veteran families as identified by VAMCs.
PBVs - see Notice PIH 2011-50	HUD will consider, on a case-by-case basis, requests from participating PHAs to project-base HUD-VASH vouchers.
	HUD has lifted the limit on the percent of a PHA's HUD-VASH allocation that could be project-based. However, HUD-VASH project- based units are still counted under the 20-percent budget authority limit, in accordance with 24 CFR 983.5(a)
SEMAP	HUD-VASH vouchers are excluded from the SEMAP leasing indicator.
Moving to Work	HUD-VASH vouchers must be administered in accordance with HUD-VASH notices and are not eligible for fungibility. An MTW agency may submit a request to the Office of Public Housing and Voucher Programs to operate HUD-VASH vouchers in accordance with their MTW administrative flexibilities. The request will be approved if the flexibilities do not conflict with VASH requirements.
	HUD-VASH vouchers must be reported on separately from MTW vouchers using the regular form HUD-50058, unless an MTW agency requests and is granted a waiver by HUD headquarters.
Topic	**HUD-VASH Reporting Requirements** - See Notice PIH 2011-53
New PIC Code	The code "VASH" has been established for use on line 2n of HUD-50058 to indicate that the family is a participant. The code must remain on the form throughout the family's participation in the program.
	PHAs must report issuance on HUD-50058 by entering VASH in field 2n and code 10 (issuance of voucher) in field 2a.
	If a HUD-VASH family no longer requires case management and the PHA has the funding and elects to serve them under its regular HCV program, the VASH code is no longer used on 2n. If the PHA elects not to provide them with a regular voucher, the VASH code must continue to be used on 2n.
PIC and Portability	If the HUD-VASH family never leased up in the initial PHA's jurisdiction, the receiving PHA must enter code 1 (new admission) on line 2a. If the HUD-VASH family did lease up in the initial PHA's jurisdiction, the receiving PHA must enter code 4 (port-in) on 2a.
	The receiving PHA must submit a 50058 report in PIC for action code 10 (issuance of voucher) on line 2a. Receiving PHAs that have not been awarded VASH vouchers must bill the initial PHA for tracking purposes.
	The code VASH must be entered and maintained on line 2n by both the initial and receiving PHA.
VMS	In VMS, the PHA should report all families that are supported by HAP funds under its own ACC, including those for which it is billed under portability.
	The UML and HAP of a HUD-VASH voucher that has ported out (for which the PHA is being billed) should be reported in the VASH field, not the port-out field.

HUD-VASH REFERENCE GUIDE
RULES WAIVED FOR THE PROGRAM

(Based on flexibility provided by Congress in annual appropriation acts)

Topic	Regulation/Legislation	Explanation of Regulation/Authorization	HUD-VASH Requirement
Eligibility	Section 8(o)(19) of USHA of 1937	A provision of this statute requires that homeless Veterans have a chronic mental illness or chronic substance use disorder and that such disorders be treated as a condition of receipt of HUD-VASH voucher.	HUD-VASH participants are not required to have or be treated for chronic mental illnesses or chronic substance abuse disorders.
Waiting Lists	Section 8(o)(6)(A) of USHA of 1937, U.S.C. 1437f(o)(6)(A)	Authorizes PHAs to establish preferences for their waiting list based upon local need and priorities.	PHAs do not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers.
	24 CFR 982.202 through 982.206	Covers selection of applicants, special admissions, waiting list administration, cross-listing, and opening/closing of waiting lists.	PHAs do not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers.
Preferences	24 CFR 982.207	Covers local preferences.	PHAs do not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers.
Screening of Applicants	24 CFR 982.552 and 24 CFR 982.553	PHAs have the authority to screen potentially eligible families and deny assistance on permitted grounds. 982.552 covers broad denial for violations of HCV program requirements and 982.553 covers specific denials for criminal and alcohol abusers.	PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The VAMC will screen families in accordance with its screening criteria and federal nondiscrimination laws. One exception is that 982.553(a)(2)(i) is not waived & requires denial of admission to certain registered sex offenders. Also, when new family members are added after the Veteran is a participant, 24 CFR 982.551(h)(2) and regular PHA screening criteria apply.
Income Targeting	24 CFR 982.201(b)(2) and income targeting requirements of Section 16(b) of USHA of 1937	Specifies income-targeting requirements for PHAs: no less than 75% of families admitted to the voucher program must be extremely low- income families.	To ensure that PHAs can effectively serve the eligible population specified in the Conference Report accompanying the 2008 Appropriations Act, homeless Veterans at a range of income levels, income-targeting requirements do not apply for HUD-VASH.
Initial Search Term	24 CFR 982.303(a)	Sets an initial search term of at least 60 calendar days for participants to locate housing using their voucher.	In recognition of the potential challenges associated with locating appropriate housing, the initial search term for HUD-VASH participants must be at least 120 days. Any extensions, suspensions, and progress reports will remain under the policies in PHA's admin plan but will apply after the 120- day initial search term.

Length of Lease	Section 8(o)(7)(A) of the USHA of 1937, 42 USC 1437(f)(o)(7)(A), and 24 CFR 982.309(a)(2)(ii)	Requires that the initial lease with the owner be for 1 year unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice.	Initial lease terms may be less than 1 year in order to provide a greater range of housing opportunities for HUD-VASH voucher holders.
Location of Units	24 CFR 982.352(a)(5)	Prohibits the use of vouchers for units on the grounds of medical, mental, or similar public or private institutions	HUD-VASH families are permitted to live on the grounds of a VAMC in units developed to house homeless Veterans.
Mobility & Portability	24 CFR 982.353(a), (b), and (c)	Covers where the family can lease a unit with HCV assistance. Stipulates that applicant families are allowed to move under portability upon voucher issuance, prior to being officially admitted into the program. PHAs may restrict portability if neither the household head nor spouse of an applicant family were legal residents in the jurisdiction of the initial PHA when they applied.	PHAs must follow special mobility and portability procedures for HUD-VASH. All Veteran families still have the right to move under portability, as long as partnering VAMC(s) approve and can continue to provide case management, if it's still needed by the Veteran. Families issued a HUD-VASH voucher that were not legal residents when they applied must be allowed to move under portability. See Notice PIH 2011-53 for more information.
Portability	Section 8(l)(B)(i) of the USHA of 1937; 42 U.S.C. 1437 f(r)(l)(B)(i)	Restricts portability in cases where the family did not reside in the jurisdiction of the PHA at the time of the HCV application	HUD-VASH PHAs have to follow specia mobility and portability procedures. Families issued a HUD-VASH voucher that were not legal residents when they applied must be allowed to move under portability.
	24 CFR 982.3559(d)	Provides the option for the receiving PHA to absorb the family into its own HCV program or to bill the initial PHA instead	HUD-VASH PHAs have to follow special mobility and portability procedures. See Notice PIH 2011-53 for more information.
SEMAP	24 CFR 985.3(n)(l)(i) and (ii)	Covers procedures for verifying the lease-up indicator in SEMAP	Because the leasing of HUD-VASH vouchers will be dependent on referrals from the VAMC, the unit months and budget authority associated with these vouchers will not be included in the SEMAP leasing indicator denominator. However, utilization of these vouchers will be monitored separately through HUD systems.

Exhibit R. Section Eight Management Assessment Program (SEMAP)

§ 985.3 Indicators, HUD verification methods and ratings.

This section states the performance indicators that are used to assess PHA Section 8 management. HUD will use the verification method identified for each indicator in reviewing the accuracy of an PHA's

annual SEMAP certification. HUD will prepare a SEMAP profile for each PHA and will assign a rating for each indicator as shown. If the HUD verification method for the indicator relies on data in MTCS and HUD determines those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator. The method for selecting the PHA's quality control sample under paragraphs (a), (b), (c) and (f) of this section must leave a clear audit trail that can be used to verify that the PHA's quality control sample was drawn in an unbiased manner.

An PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor (IA), will not be rated under the SEMAP indicators in paragraphs (a) through (g) of this section for which the annual IA audit report is a HUD verification method. For those PHAs, the SEMAP score and overall performance rating will be determined based only on the remaining indicators in paragraphs (i) through (o) of this section as applicable. Although the SEMAP performance rating will not be determined using the indicators in paragraphs (a) through (g) of this section, PHAs not subject to Federal audit requirements must still complete the SEMAP certification for these indicators and performance under the indicators is subject to HUD confirmatory reviews.

(a) **Selection from the waiting list.**
(1) This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list. (24 CFR 982.54(d)(1) and 982.204(a))

(b) **Reasonable rent.**
(1) This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units: at the time of initial leasing; if there is any increase in the rent to owner; and at the HAP contract anniversary if there is a 5 percent decrease in the published fair market rent (FMR) in effect 60 days before the HAP contract anniversary. The PHA's method must take into consideration the location, size, type, quality and age of the units, and the amenities, housing services, and maintenance and utilities provided by the owners in determining comparability and the reasonable rent. (24 CFR 982.4, CFR 982.54(d)(15), 982.158(f)(7) and 982.507)

(c) **Determination of adjusted income.**
(1) This indicator shows whether, at the time of admission and annual reexamination, the PHA verifies and correctly determines adjusted annual income for each assisted family and, where the family is responsible for utilities under the lease, the PHA uses the appropriate utility allowances for the unit leased in determining the gross rent. (24 CFR part 5, subpart F and 24 CFR 982.516)

(d) Utility Allowance Schedule.
(1) This indicator shows whether the PHA maintains an up-to-date utility allowance schedule. (24 CFR 982.517)

(e) ~~HQS~~ NSPIRE quality control inspections.
(1) This indicator shows whether an PHA supervisor or other qualified person reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements

specified at § 985.2 under PHA's quality control sample, for quality control of ~~HQS~~ **NSPIRE** inspections. The PHA supervisor's reinspected sample is to be drawn from recently completed ~~HQS~~ **NSPIRE** inspections (i.e., performed during the 3 months preceding reinspection) and is to be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors. (24 CFR 982.405(b))

(f) ~~HQS~~ NSPIRE enforcement.
(1) This indicator shows whether, following each ~~HQS~~ **NSPIRE** inspection of a unit under contract where the unit fails to meet ~~HQS~~ **NSPIRE**, any cited life-threatening ~~HQS~~ **NSPIRE** deficiencies are corrected within 24 hours from the inspection and all other cited ~~HQS~~ **NSPIRE** deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension. In addition, if ~~HQS~~ **NSPIRE** deficiencies are not corrected timely, the indicator shows whether the PHA stops (abates) housing assistance payments beginning no later than the first of the month following the specified correction period or terminates the HAP contract or, for family-caused defects, takes prompt and vigorous action to enforce the family obligations. (24 CFR 982.404)

(g) Expanding housing opportunities.
(1) This indicator applies only to PHAs with jurisdiction in metropolitan FMR areas. The indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs rental voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration. (24 CFR 982.54(d)(5), 982.301(a) and 982.301(b)(4) and 982.301(b)(12))

(h) Deconcentration bonus.
(1) Submission of deconcentration data in the HUD-prescribed format for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50th percentile rent to provide access to a broad range of housing opportunities throughout a metropolitan area in accordance with § 888.113(c) of this title, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMR set at the 50th percentile rent. Submission of deconcentration data for this indicator is optional for all other PHAs. Additional SEMAP points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit with their SEMAP certifications certain data, in a HUD-prescribed format, on the percent of their tenant-based Section 8 families with children who live in, and who have moved during the PHA fiscal year to, low poverty census tracts in the PHA's principal operating area. For purposes of this indicator, the PHA's principal operating area is the geographic entity for which the Census tabulates data that most closely matches the PHA's geographic jurisdiction under State or local law (e.g., city, county, metropolitan statistical area) as determined by the PHA, subject to HUD review. A low poverty census tract is defined as a census tract where the poverty rate of the tract is at or below 10 percent, or at or below the overall poverty rate for the principal operating area of the PHA, whichever is greater. The PHA determines the overall poverty rate for its principal operating area using the most recent available decennial Census data.

Family data used for the PHA's analysis must be the same information as reported to MTCS for the PHA's tenant-based Section 8 families with children. If HUD determines that the quantity of MTCS data

is insufficient for adequate analysis, HUD will not award points under this bonus indicator. Bonus points will be awarded if:

(i) Half or more of all Section 8 families with children assisted by the PHA in its principal operating area at the end of the last completed PHA fiscal year reside in low poverty census tracts;

(ii) The percent of Section 8 mover families with children who moved to low poverty census tracts in the PHA's principal operating area during the last completed PHA fiscal year is at least 2 percentage points higher than the percent of all Section 8 families with children who reside in low poverty census tracts at the end of the last completed PHA fiscal year; or

(iii) The percent of Section 8 families with children who moved to low-poverty census tracts in the PHA's principal operating area over the last two completed PHA fiscal years is at least 2 percentage points higher than the percent of all Section 8 families with children who resided in low poverty census tracts at the end of the second to last completed PHA fiscal year.

(iv) State and regional PHAs that provide Section 8 rental assistance in more than one metropolitan area within a State or region make these determinations separately for each metropolitan area or portion of a metropolitan area where the PHA has assisted at least 20 Section 8 families with children in the last completed PHA fiscal year.

(i) Payment standards.

(1) This indicator shows whether the PHA has adopted a payment standard schedule that establishes voucher payment standard amounts by unit size for each FMR area in the PHA jurisdiction, and, if applicable, separate payment standard amounts by unit size for a PHA-designated part of an FMR area, which payment standards do not exceed 110 percent of the current applicable published FMRs and which are not less than 90 percent of the current applicable published FMRs (unless a higher or lower payment standard amount is approved by HUD). (§ 982.503 of this chapter.)

(j) Annual reexaminations.

(1) This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months. (24 CFR 5.617).

(k) Correct tenant rent calculations.

(1) This indicator shows whether the PHA correctly calculates tenant rent in the rental certificate program and the family's share of the rent to owner in the rental voucher program. (24 CFR 982 subpart K).

(l) Pre-contract housing quality standards (**~~HQS~~ NSPIRE**) inspections.

(1) This indicator shows whether newly leased units pass **~~HQS~~ NSPIRE** inspection on or before the beginning date of the assisted lease and HAP contract. (24 CFR 982.305).

(m) Annual ~~HQS~~ NSPIRE ~~HQS~~ NSPIRE inspections.

(1) This indicator shows whether the PHA inspects each unit under contract at least annually. (24 CFR 982.405(a))

(n) Lease-up.

(1) This indicator shows whether the PHA enters HAP contracts for the number of units reserved under ACC for at least one year.

(**o) Family self-sufficiency (FSS) enrollment and escrow accounts.**

(1) This indicator applies only to PHAs with mandatory FSS programs. The indicator consists of 2 components which show whether the PHA has enrolled families in the FSS program as required, and the extent of the PHA's progress in supporting FSS by measuring the percent of current FSS participants with FSS progress reports entered in MTCS that have had increases in earned income which resulted in escrow account balances. (24 CFR 984.105 and 984.305)

Exhibit S. New Housing Protections in VAWA 2013

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

ASSISTANT SECRETARY
FOR PUBLIC AND INDIAN HOUSING

SEP 3 0 2013

Dear Executive Director:

Subject: New Housing Protections in VAWA 2013

On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). VAWA 2013 implemented several key changes related to housing protections for victims of domestic violence, dating violence, sexual assault or stalking.

HUD published a notice in the *Federal Register* (FR) on August 6, 2013 describing the changes related to housing and the implications to HUD's programs. HUD also sought comment on certain provisions through the notice to aid in the development of regulations and program guidance. This letter summarizes the August 6 FR notice and reminds you that the comment period ends October 7, 2013. For your convenience, the notice is attached. Please share your comments on www.Regulations.gov.

As discussed in the August 6 FR notice, PHAs are able to implement most of the changes immediately, while certain provisions in the law require changes to HUD's regulations and further guidance before PHAs can implement the changes. With the exception of certain provisions identified below where further regulations or guidance are needed, PHAs, owners and managers administering public or section 8 housing must continue to provide VAWA protections as provided in 24 CFR part 5, subpart L, as those protections are enhanced by VAWA 2013.

Summary of Key Changes in VAWA 2013:

- VAWA 2013 expands housing protections to victims of sexual assault. The current regulatory language at 24 CFR part 5, subpart L describes protections for "victims of domestic violence, dating violence, or stalking," but effective March 7, 2013 (the date that VAWA 2013 was signed into law) these protections were expanded to include victims of sexual assault.

- VAWA 2013 expands protections relating to the prohibition of terminating assistance because of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking (currently at 24 CFR 5.2005(c)(2)) by replacing the term "immediate family member" with "affiliated individual." VAWA 2013 provides that criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of a tenant's household or any guest or other person

under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an *affiliated individual* of the tenant is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking (emphasis added). VAWA 2013 defines an "affiliated individual," with respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

- VAWA 2013 expands the protections regarding lease bifurcations (currently at 24 CFR 5.2009(a)) by:

    - changing the language regarding the violent acts ("criminal acts of physical violence against family members or others" becomes "criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual"), and

    - mandating that if such bifurcation occurs, and the removed tenant or lawful occupant was the sole tenant eligible to receive assistance under a covered housing program, the PHA shall provide any remaining tenant the opportunity to establish eligibility for the covered housing program. If the remaining tenant cannot establish eligibility, the PHA is required to provide the tenant a reasonable time to find new housing or to establish eligibility under another covered housing program. HUD will provide through rulemaking or guidance, as may be applicable, what constitutes a reasonable time for remaining tenants to find new housing or establish eligibility under another HUD covered housing program. PHAs will not be able to implement this provision until HUD provides such rulemaking or guidance. HUD specifically solicits comment on that period that would be reasonable to find new housing or establish eligibility under another HUD covered housing program.

- VAWA 2013 expands the forms of documentation that a victim may provide. Specifically, VAWA 2013 provides that the forms of documentation a victim may provide (currently at 24 CFR 5.2007(b)(2)-(3), and listed on the form HUD-50066) also include a record of an administrative agency, and documentation from a mental health professional. Additionally, VAWA 2013 provides that the victim is required to provide the name of the perpetrator on the HUD-50066 only if the name of the perpetrator is safe to provide and is known to the victim.

- VAWA 2013 expands the notification requirements (currently at 24 CFR 5.2005(a)(l)) to require that PHAs provide the notice when a person is denied assistance, when a person is admitted, and when a tenant is notified of eviction or termination of housing benefits, and to require that the notice be provided together with form HUD-50066.

    - Additionally, VAWA 2013 requires that HUD develop the notice of rights that PHAs are required to provide to applicants/participants. HUD specifically solicits comment on the content of the notice of tenant's rights. Until such time that HUD develops the notice, PHAs must continue to use the notice of rights they already provide to tenants per 5.2005(a)(l).

- VAWA 2013 requires HUD to adopt a model emergency transfer plan for use by PHAs, and requires HUD to establish policies and procedures under which victims of abuse requesting an emergency transfer may receive, subject to the availability of tenant protection vouchers, assistance through the tenant-based section 8 program. HUD specifically requests comments on the content of the model emergency transfer plan and the implementation of the tenant protection vouchers provision. Before such time that HUD develops the model emergency transfer plan, PHAs may continue to implement any transfer plan at that property/program as described in an agency's admissions and continued occupancy plan or administrative plan.

- VAWA 2013 also expands the housing protections from VAWA 2005 to extend to the following new housing programs, including two that are not administered by HUD:

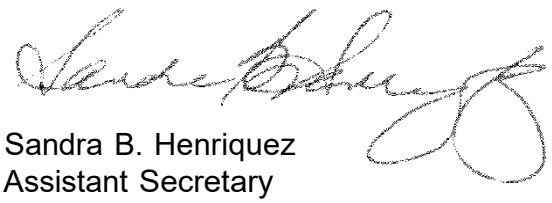
    - HOME Investment Partnerships Program
    - Section 202 Supportive Housing for the Elderly
    - Section 236 Rental Program
    - Section 811 Supportive Housing for People with Disabilities
    - Section 221(d)(3) Below Market Interest Rate (BMIR) Program
    - HOPWA Housing Program
    - HUD's McKinney-Vento homeless programs
    - Low-Income Housing Tax Credit properties (Department of Treasury)
    - USDA Rural Housing properties (Department of Agriculture)

While HUD is developing regulations to codify these important protections, please be sure to update your Administrative Plans and Admissions and Continued Occupancy Plans in accordance with the enhanced protections found in VAWA 2013.

Furthermore, it is important to remember that certain policies and practices that treat victims of domestic violence differently from other tenants may be considered to be discrimination on the basis of sex under the federal Fair Housing Act. I encourage you to review HUD's 2011 Guidance on Domestic Violence and Fair Housing (also attached). Please note that although the 2011 guidance covers protections under the Fair Housing Act and under VAWA 2005, it has not yet been updated to include the protections under VAWA 2013.

If you have questions concerning VAWA 2013, please contact your local HUD Field Office of Public Housing. For questions related to the Fair Housing Act, please contact your local HUD Field Office of Fair Housing.

Sincerely,



Sandra B. Henriquez
Assistant Secretary

Exhibit T.

Guidance for PHA and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Public and Indian Housing

Special Attention of: Public Housing Agency Directors Public Housing Hub Offices Directors Public Housing Field Office Directors Resident Management Corporations All Multifamily Hub Directors Multifamily Program Center Directors	**Notice PIH 2015-19** Issued: November 2, 2015 Expires: This notice remains in effect until amended, superseded, or rescinded. All

Subject: Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions

1. Background

For the past five years HUD has been an active member of the Federal Interagency Reentry Council. This Council, made up of more than 23 Federal Agencies, meets on a regular basis to act on issues that affect the lives of those released from incarceration. An important aspect of the Reentry Council's work has been to have each Federal Agency identify and address "collateral consequences" that individuals and their families may face because they or a family member has been incarcerated or has had any involvement with the criminal justice system.[1]

In 2011, former HUD Secretary Shaun Donovan issued a letter to public housing authorities (PHAs) across the country emphasizing the importance of providing "second chances" for formerly incarcerated individuals.[2] Secretary Donovan urged PHAs to adopt admission policies that achieve a sensible and effective balance between allowing individuals with a criminal record to access HUD-subsidized housing and ensuring the safety of all residents of such housing. A year later, Secretary Donovan encouraged owners of HUD-assisted multifamily properties ("owners") to do the same and reiterated HUD's goal of "helping ex-offenders gain access to one of the most fundamental building blocks of a stable life – a place to live." HUD has also previously stressed the troubling relationship between housing barriers for individuals with criminal records and homelessness, stating that "the difficulties in reintegrating into the community increase the risk of homelessness for released prisoners, and homelessness in turn increases the risk of subsequent re-incarceration."[3]

[1] For more information on the initiatives of the Council members, see https://csgjusticecenter.org/nrrc/projects/firc/snapshots/.

[2] Letter from Shaun Donovan, Secretary, United States Department of Housing and Urban Development, to Public Housing Authority Executive Directors (June 17, 2011), available at http://usich.gov/resources/uploads/asset_library/Rentry_letter_from_Donovan_to_PHAs_6-17-11.pdf.

At a time when an estimated 100 million (or nearly one in three) Americans have some type of criminal record,[4] HUD remains committed to the goal of providing second chances to formerly incarcerated individuals where appropriate and to ensuring that individuals are not denied access to HUD-subsidized housing on the basis of inaccurate, incomplete, or otherwise unreliable evidence of past criminal conduct. With those aims, and in response to requests from housing providers and prospective tenants for guidance from HUD regarding the proper use of criminal records in housing decisions, HUD is issuing this notice.

2. Purpose

The purpose of this Notice is to inform PHAs and owners of other federally-assisted housing that arrest records may not be the basis for denying admission, terminating assistance or evicting tenants, to remind PHAs and owners that HUD does not require their adoption of "One Strike" policies, and to remind them of their obligation to safeguard the due process rights of applicants and tenants.

The Notice also reminds PHAs and owners of their obligation to ensure that any admissions and occupancy requirements they impose comply with applicable civil rights requirements contained in the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act of 1990, and the other equal opportunity provisions listed in 24 CFR 5.105.

Finally, the Notice provides best practices and peer examples for PHAs and owners to review.

3. HUD Does Not Require PHAs and Owners to Adopt "One Strike" Policies

HUD does not require that PHAs and owners adopt or enforce so-called "one-strike" rules that deny admission to anyone with a criminal record or that require automatic eviction any time a household member engages in criminal activity in violation of their lease. Instead, in most cases, PHAs and owners have discretion to decide whether or not to deny admission to an applicant with certain types of criminal history, or terminate assistance or evict a household if a tenant, household member, or guest engages in certain drug-related or certain other criminal activity on or off the premises (in the case of public housing) or on or near the premises (in the case of Section 8 programs).[5]

[3] Guidance on Housing Individuals and Families Experiencing Homelessness Though the Public Housing and Housing Choice Voucher Programs, HUD PIH Notice 2013-15 (HA), 8 (June 10, 2013), available at http://1.usa.gov/1afx3VY.

[4] Bureau of Justice Statistics, U.S. Dept. of Justice, *Survey of State Criminal History Information Systems*, 2012, 3 (Jan. 2014), available at https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf.

[5] HUD regulations outline the limited instances where denial of admission or termination of assistance is required in the public

housing, Housing Choice Voucher and Section 8 multifamily programs. See 24 CFR Part 5, subpart I; Part 960, subpart B; Part 966, subpart A; Part 982, subpart L.

In deciding whether to exercise their discretion to admit or retain an individual or household that has engaged in criminal activity, PHAs and owners may consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to: the seriousness of the offending action; the effect that eviction of the entire household would have on family members not involved in the criminal activity; and the extent to which the leaseholder has taken all reasonable steps to prevent or mitigate the criminal activity. Additionally, when specifically considering whether to deny admission or terminate assistance or tenancy for illegal drug use by a household member who is no longer engaged in such activity, a PHA or owner may consider whether the household member is participating in or has successfully completed a drug rehabilitation program, or has otherwise been rehabilitated successfully.[6]

4. An Arrest is Not Evidence of Criminal Activity that Can Support an Adverse Admission, Termination, or Eviction Decision

Subject to limitations imposed by the Fair Housing Act and other civil rights requirements,[7] PHAs and owners generally retain broad discretion in setting admission, termination of assistance, and eviction policies for their programs and properties. Even so, such policies must ensure that adverse housing decisions based upon criminal activity are supported by sufficient evidence that the individual engaged in such activity. Specifically, before a PHA or owner denies admission to, terminates the assistance of, or evicts an individual or household on the basis of criminal activity by a household member or guest, the PHA or owner must determine that the relevant individual engaged in such activity.

HUD has reviewed relevant case law and determined that the fact that an individual was arrested is not evidence that he or she has engaged in criminal activity. Accordingly, the fact that there has been an arrest for a crime is not a basis for the requisite determination that the relevant individual engaged in criminal activity warranting denial of admission, termination of assistance, or eviction.

An arrest shows nothing more than that someone probably suspected the person apprehended of an offense. In many cases, arrests do not result in criminal charges, and even where they do, such charges can be and often are dismissed or the person is not convicted of the crime alleged. In fact, in the 75 largest counties in the country, approximately one-third of felony arrests did not result in conviction, with about one-quarter of all cases ending in dismissal.[8]

[6] See 24 CFR 5.852, 960.203(d), 966.4(l)(5)(vii), 982.310(h) (describing PHA and owner discretion in screening and evictions actions related to criminal activity).

[7] See 24 CFR 5.852(e) ("admission and eviction decisions must be consistent with fair housing and equal opportunity provisions of [24 CFR 5.105]"); see also 24 CFR 960.202(c)(3), 966.6(l)(vii)(F), 982.310(h)(4), 982.552(c)(2)(v).

[8] Brian A. Reaves, Bureau of Justice Statistics, U.S. Dept. of Justice, Felony Defendants in Large Urban Counties, 2009, at 22, Table 21 (2013), http://www.bjs.gov/content/pub/pdf/fdluc09.pdf.

Moreover, arrest records are often inaccurate or incomplete (e.g., by failing to indicate whether the individual was prosecuted, convicted, or acquitted), such that reliance on arrests not resulting in conviction as the basis for denying applicants or terminating the assistance or tenancy of a household or household member may result in unwarranted denials of admission to or eviction from federally subsidized housing.[9]

With respect to the Section 8 tenant-based and moderate rehabilitation programs, HUD regulations specifically provide that termination of assistance for criminal activity must be based on a "preponderance of the evidence" that the tenant, or other household member, or guest engaged in such activity. For public housing as well, applicants or tenants may not be denied admission or evicted based on mere suspicion that they, a household member, or guest has engaged in criminal activity. Where PHAs or owners seek eviction, they should be prepared to persuade a court that the eviction is justified based on sufficient evidence of criminal activity in violation of the lease.

For these reasons, a PHA or owner may not base a determination that an applicant or household engaged in criminal activity warranting denial of admission, termination of assistance, or eviction on a record of arrest(s).

Although a record of arrest(s) may not be used to deny a housing opportunity, PHAs and owners may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the PHA or owner has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions.

An arrest record can trigger an inquiry into whether there is sufficient evidence for a PHA or owner to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. PHAs and owners can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

5. Protecting the Due Process Rights of Applicants and Tenants

Federal law requires that PHAs provide public housing, project-based Section 8, and Section 8 HCV applicants with notification and the opportunity to dispute the accuracy and relevance of a criminal record *before* admission or assistance is denied on the basis of such record. Public housing and Section 8 applicants also must be afforded the right to request an informal hearing or review *after* an application for housing

[9] See, e.g., U.S. Dept. of Justice, *The Attorney General's Report on Criminal History Background Checks* at 3, 17 (June 2006), http://www.justice.gov/olp/ag_bgchecks_report.pdf (reporting that the FBI's Interstate Identification Index system, which is the national system designed to provide automated criminal history record information and "the most comprehensive single source of

criminal history information in the United States," is "still missing final disposition information for approximately 50 percent of its records").

assistance is denied.

As with admissions decisions, federal law requires that PHAs provide public housing, project-based Section 8, and Section 8 HCV tenants with notice and the opportunity to dispute the accuracy and relevance of a criminal record before they evict or terminate the tenant's assistance on the basis of such record. Moreover, PHAs and owners may only terminate the tenancy or assistance of a public housing or project-based Section 8 tenant through either a judicial action in state or local court, or, in the case of a Section 8 HCV participant, through an administrative grievance hearing before an impartial hearing officer appointed by the PHA. In either case, the tenant must be afforded the basic elements of due process, including the right to be represented by counsel, to question witnesses, and to refute any evidence presented by the PHA or owner.

6. Civil Rights Requirements and Consistent Application of Procedures and Standards

PHAs and owners must ensure that any screening, eviction, or termination of assistance policies and procedures comply with all applicable civil rights requirements contained in in the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act of 1990, and the other equal opportunity provisions listed in 24 CFR 5.105. To that end, a PHA or owner should institute protocols that assure that its procedures and standards are consistently applied and that decisions are made based on accurate information. Inconsistent application of standards or decisions based on partial or inaccurate information may result in liability under federal civil rights laws. See, e.g., Allen v. Muriello, 217 F. 3rd 517 (7th Cir. 2000) (allegation that African American applicant for federal housing assistance was given less opportunity to contest erroneous record of criminal activity than two similarly situated white applicants established a prima facie case of discrimination under the Fair Housing Act).

7. Best Practices and Peer Examples

PHAs and owners are encouraged to adopt admissions and continuing occupancy policies based on the best practices highlighted below to guard against unwarranted denial of assistance, termination from program participation, or eviction from federally assisted housing. These best practices incorporate clear standards for using information about criminal history in an admission or continuing participation decision. PHAs and owners are also encouraged to read the Shriver Report entitled "When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing."

Examples of PHA Best Practices on the Use of Criminal Records

a. Many PHAs have adopted written admission policies that limit their criminal record screening to assessments of conviction records.

Examples of PHA Best Practices on Screening for Criminal Activity

A. Some PHAs allow public housing and Housing Choice Voucher applicants to address and present mitigating circumstances regarding criminal backgrounds prior to admission decisions. In some cases, doing so has produced cost savings due to fewer decision appeals.

B. Some PHAs have adopted look back periods that limit what criminal conduct is considered during the screening process based on when the conduct occurred and/or the type of conduct. For example, when screening HCV applicants, one PHA has adopted a twelve-month look back period for drug-related criminal activity and a twenty-four month look back period for violent and other criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

C. Some PHAs have adopted admission policies that enumerate the specific factors that will be considered when the PHA evaluates an individual's criminal record, including:

(a). Whether the applicant's offense bears a relationship to the safety and security of other residents;
(b). The level of violence, if any, of the offense for which the applicant was convicted;
(c). Length of time since the conviction;
(d). The number of convictions that appear on the applicant's criminal history;
(e). If the applicant is now in recovery for an addiction, whether the applicant was under the influence of alcohol or illegal drugs at the time of the offense; and
(f). Any rehabilitation efforts that the applicant has undertaken since the time of conviction.

D. Some PHAs have implemented pilot programs that allow formerly incarcerated persons who have been released from prison within the past two or three years to be added to an existing voucher of a family member if all involved agree to participate and the formerly incarcerated individual agrees to six months to one year of supportive services with nonprofit partners.

E. One PHA has hired an offender reentry housing specialist who collaborates with a formerly incarcerated individual's parole officer, landlord, and treatment provider to ensure successful reentry into the community.

Example of PHA Best Practices on Evicting and Terminating Assistance for Criminal Activity

A. Some PHAs have adopted policies that list the circumstances that will be considered prior to a termination of the lease on the basis of criminal activity, including:

(a). The seriousness of the offending action, especially with respect to how it would affect other residents;

(b). The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking;
(c). The effects that the eviction will have on other family members who were not involved in the action or failure to act;
(d). The effect on the community of the termination, or of the PHA's failure to terminate the tenancy;
(e). The effect of the PHA's decision on the integrity of the public housing program;
(f). The demand for housing by eligible families who will adhere to lease responsibilities;
(g). The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action; and

(h). The length of time since the violation occurred, the family's recent history, and the likelihood of favorable conduct in the future.

8. Paperwork Reduction Act

The information collection requirements contained in this Notice were approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C 3501-3520). Compliance and Enforcement are covered by OMB controls numbers 2502-0205, 2577-0232, 2577-0220, 2577-0230, and 2577 - 0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

9. Contact Information

If you have questions regarding this Notice, please contact your local HUD Field Office.

/s/

Lourdes Castro Ramirez
Principal Deputy Assistant Secretary for
Public and Indian Housing

/s/ Edward Golding
Principal Deputy Assistant Secretary for
Housing

Exhibit U.
Policy Guidance on College Student Admissions
U.S. Department of Housing and Urban Development
Public and Indian Housing

Special Attention of:	**NOTICE** PIH 2005 - 16 (HA)
Public Housing Agencies; HUD Directors of Public Housing; PIH Program Center Coordinators; Public Housing Division Directors; Regional Directors	Issued: June 15, 2005 Expires: June 30, 2006 Cross References: Public Housing Occupancy Guidebook Housing Choice Voucher Guidebook

Subject: Policy Guidance on College Student Admissions

1. **Purpose.** HUD has recently become aware that PHAs may be admitting ineligible college students to HUD's public and assisted housing programs. In order to be eligible for program assistance, an applicant must meet income eligibility requirements, as established by Section 3(a)(1) and 8(o)(4) of the U.S. Housing Act of 1937 and implementing regulations at 24 CFR 960.201 and 982.201.

   If a PHA fails to carefully screen/interview prospective tenants such as college students, including post- secondary students by using a detailed interview script that asks all of the "right" questions about sources of income (e.g., How much money or benefits do you receive per month? What are the sources of income? Do you anticipate receiving any money or support from your parents/guardians for food, clothing, or personal items? How do you pay for food, clothes, and entertainment?), a PHA is unlikely to learn whether a college student is anticipating income from an outside source (24 CFR 5.609(a)(2)). This includes regular contributions or gifts (24 CFR 5.609(b)(7)) such as financial support from parents or guardians to college students that must be verified and counted in determining *income* eligibility and level of assistance. The result of a PHA's failure to adequately screen, verify, and count applicant sources of income leads to ineligible college students being admitted to public housing, voucher, or certificate programs. Thus, this Notice:

   - Outlines PIH's policy for determining and verifying the eligibility of full- time college students of non-parental/guardian households;
   - Implements section 224 of the FY 2005 Appropriations Act regarding athletic scholarship assistance available for housing costs (The Office of Housings' policy on implementation of section 224 will be contained in the Multifamily Handbook 4350.3); and
   - Identifies tools for better assuring that families in need of assistance are able to participate in HUD's programs.

2. **Applicability.** This Notice applies to Public Housing, Housing Choice Voucher (HCV), Project-based Certificate, Project-based Voucher, and Section 8 Moderate Rehabilitation Programs.

3. **Effective Date.** This Notice is effective upon publication and its application is mandatory for all applicants to and participants in applicable programs.

4. **Determining and Verifying Eligibility of "Full-time" College Students of Non-parental/guardian Households.**

A. Listed in table A are required eligibility and verification standards that must be met prior to admitting "full-time" college students to PIH rental assistance programs. A full-time student is defined as a person who is attending school or vocational training on a full-time basis (24 CFR 5.603).

TABLE A — REQUIRED STEPS	
DETERMINATION OF ELIGIBILITY	**VERIFICATION OF ELIGIBILITY**
The student must be of legal age or an emancipated minor under the state law.	PHAs must obtain proof of age such as a valid drivers license, identification card issued by a federal, state, or local agency, identification issued by a medical insurance company, birth certificate, or other form of identification, as determined by the PHA.
The student must be income eligible for admission to the public housing/HCV programs (24 CFR 960.201 and 982.201).	PHAs must verify all sources of reported family income, in accordance with 24 CFR 960.259 and 982.516.

B. Listed in table B are suggested eligibility and verification standards and policies for admitting "full-time" college students. PHAs are encouraged to update their policies and implement the following regarding "full-time" college students.

TABLE B — SUGGESTED STEPS	
DETERMINATION OF ELIGIBILITY	**VERIFICATION OF ELIGIBILITY**
Each college student within a household must provide a *written/signed certification* that the student does or does not anticipate receiving financial support from the student's parent(s) or guardian(s) and the amount of support	PHAs must verify, via independent third -party verification, all amounts anticipated to be received outside of the family during the 12 -month period following admission and the effective date of the annual reexamination
The college student must have established a household separate from his/her parents or legal guardians for at least *one year* prior to applying to public housing, voucher, or	Obtain evidence of separate households by reviewing/verifying the address information that p redates the student's application by a minimum of *one* year
The college student *must not be claimed* as a dependent by parent(s) or legal guardian(s) on their Internal Revenue Services (IRS) tax return	This may be achieved by requesting a copy of the college student's Form 1040EZ, 1040A, or 1040 tax returns for the prior year. Check the box that asks whether the student's parents (or someone else) can claim him/her on their tax return (See box "5" for Form 1040EZ and box "6a" for Forms 1040A and 1040). The P HA may also, if practicable, review the college student's parents' or guardians' tax return. The college student must supply any information that the PHA or HUD determines is necessary in administration of public housing, voucher, or certificate programs (24 CFR

NOTE: In all instances, a household must be income eligible and meet any and all eligibility criteria required by HUD.

5. **Section 224 of the FY 2005 Appropriations Act.** The Appropriations Act of 2005 establishes new income determination and admission requirements for students, including college and post-secondary students in HUD's public and assisted housing programs. First, the Act requires HUD to consider in the determination of family adjusted income the portion of any athletic scholarship assistance available for housing costs; and second, the Act provides that HUD establish by Notice criteria under which persons who receive athletic scholarship assistance may be denied housing assistance under the United States Housing Act of 1937.

   In accordance with the Appropriations Act, this Notice requires that the portion of any *athletic scholarship* assistance available for housing costs be verified by the PHA with the third party income source and included in the determination of family adjusted income. Currently, the full amount of financial assistance from federal and state grants and/or loans, academic scholarships, and work study program wages paid directly to the student or the educational institution is not included in the determination of annual or adjusted income (24 CFR 5.609(c)(6)).

   Regarding the second provision of the Act, if written in the PHA's policies, PHAs may deny housing assistance to persons receiving athletic scholarship assistance. However, they may only do so for those persons receiving an athletic scholarship with a specified amount available for housing costs or one that allows for a portion of the scholarship to be used towards housing costs. The specified amount or portion of the athletic scholarship available for housing costs must exceed $5,000 annually for the PHA to deny the student admission, unless local circumstances warrant a higher or lower threshold, which must be documented in the PHA's policies. Deviations from the standard threshold ($5,000) must also be documented in the tenant's file and consistently applied among applicants and participants.

Example #1. A student athlete receives a partial athletic scholarship of $15,000 per year for only books and tuition. No amount of the $15,000 can be used towards housing costs. In this case, the PHA would not consider any of the $15,000 in the determination of adjusted income, in accordance with 24 CFR 5.609(c)(6).

Example #2. A student athlete receives an athletic scholarship of $25,000 per year with $5,000 per year specifically available for housing costs. In accordance with this Notice, the PHA would consider the $5,000 in the determination of adjusted income.

Example # 3. A student athlete receives an athletic scholarship of $30,000 with $10,000 available per year for room (i.e., housing) **and** board (i.e., food). Thus, the student can use the entire $10,000 for room or use the $10,000 amount for board. So, in accordance with this Notice the PHA would count the entire $10,000 per year in adjusted income, since the entire
$10,000 is available for housing costs; or, the PHA may deny the student housing assistance, if written in the PHA's policies.

Example #4. A student athlete receives an athletic scholarship of $15,000 per year with $4,000 specifically available for housing costs per year. In accordance with this Notice, the PHA would consider the $4,000 in the determination of adjusted income (24 CFR 5.609); or, the PHA may deny the student housing assistance, if deviation from the $5,000 threshold is written in the PHA's policies, documented in the tenant's file, and consistently applied among applicants and participants.

**** Scholarship amounts in the above examples were verified by the PHA administrator.***

6. **Tools for Better Assuring that Families in Need of Assistance Are Able to Participate in HUD's Programs.**

PHAs can prevent the admission of college students by the way they define what constitutes a family. The federal regulations at 24 CFR 5.403 define certain types of families, but the PHA has the discretion to expand the definition of what is considered to be a family. For example, a PHA may also define "family" as an *independent* student, as defined by the Department of Education (see Attachment A).

A. PHAs can also establish local preferences for selecting families for admission to the PHA's public housing, voucher, or certificate programs (24 CFR 960.206 and 982.207). PHAs are encouraged to make greater use of preferences, which will: (1) better assure that families needing assistance the most, according to local needs, will be able to participate in the program and (2) prioritize families, according to need, on the PHA's waiting list.

7. **Information Contact.** Inquiries about this Notice should be directed to LaDonna Reed-Morton of the Management and Occupancy Division at (202) 708-0614, extension 4024 or to the appropriate HUD Field Office.

8. **Paperwork Reduction**. The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520) and assigned OMB control numbers 2577-0220 and 2577-0230. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

/s/
Paula O. Blunt, General Deputy Assistant Secretary for Public and Indian Housing

Attachment A

Following is the definition of independent student, as provided by the Department of Education. Source website: http://www.fafsa.ed.gov/

The only way a student can become independent for financial aid purposes (which means the custodial parents' income and asset information are not required on the FAFSA) is if the student meets at least one of the following guidelines (http://www.fafsa.com/independent.htm):

1. For the 2004-05 school year, the student must be **born before 1-1-1981**; for the 2005-06 school year, the student must be **born before 1-1-1982**; or

2. The student must be **married**; or

3. The student must **have a child or other dependents** who receive more than half their support from the student and who also live with the student; or

4. The student must be enrolled as a **graduate or professional student** (medicine, dentistry, or law); or

5. The student must be a qualified **veteran** of the U.S. military; or

6. The student must be an **orphan (parents deceased) or ward of the court** or was a ward of the court until age 18; or

7. The student must have **special and unusual circumstances** which can be documented to his or her college financial aid administrators (i.e., abuse in the family, alcoholism, etc.). This is extremely rare and only an experienced financial aid administrator at your college can make this "dependency override.

Exhibit V. Amendment of the Definition of Tuition

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

Office of Housing

Office of Public and Indian Housing

Special Attention of:	NOTICE: PIH 2015-21
Multifamily Regional Center Directors Multifamily Hub Directors Multifamily Program Center Directors Supervisory Housing Project Managers	Issued: November 18, 2015 Expires: This notice remains in effect until amended, revoked, or superseded.
Rural Housing Service (RHS) Directors Account Executives Contract Administrators Owners, Management Agents Administering Multifamily Housing Assistance Programs Public Housing Agency Directors Section 8 and Public Housing Administrators HUD Directors of Public Housing PIH Program Center Coordinators Public Housing Division Directors	Cross References: Fiscal Year 2012 Appropriations; Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance (71 FR 18146, appendix A); 24 CFR 5.609(b)(9); 24 CFR 5.609(c)(6)

Subject: Amendment to the Definition of Tuition

I. Purpose

This notice serves to amend the definition of tuition found in the *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71 FR 18146, appendix A) which is used in both Multifamily Housing and Public and Indian Housing (PIH) programs. The *Supplementary Guidance* states that "tuition shall have the meaning given this term by the institution of higher education in which the student is enrolled[1]." To promote consistency across HUD's programs and provide PHAs and O/As with a standard definition of tuition and fees, HUD is aligning with the Department of Education's definition of tuition and fees. With the issuance of this notice, tuition will now be defined in the same manner in which the Department of Education defines "tuition and fees." Section IV of this Notice provides details of the amended definition.

This Notice is effective upon publication.

[1] The term "tuition" is defined in the *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71 FR 18146, appendix A). Multifamily Housing programs define the term tuition in HUD Handbook 4350.3 REV-1.

II. Background

HUD has become aware of many institutions of higher education moving from a traditional tuition-only structure to a new tuition and fee structure. Fees often include, but are not limited to, student service fees, student association fees, student activities fees, and laboratory fees. HUD believes the inclusion of many of these required fees within the definition of tuition will increase opportunities for its participants to further their education.

This position was reinforced with the inclusion of the language (in bold below) of section 215(b) in the Fiscal Year 2012 appropriations. The FY 2012 appropriations require that the amount of any financial assistance an individual receives in excess of amounts received for tuition and "other required fees and charges" be considered when determining an applicant's or participant's annual income. For purposes of section 8 programs only see section 215 (b) below.

> SEC. 215. (b) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (**in excess of amounts received for tuition and any other required fees and charges**) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

III. Applicability

All provisions of this notice apply to owners and management agents (O/As) and public housing authorities (PHAs) administering the following covered programs under section 8 of the United States Housing Act of 1937:

A. Project-based Section 8
   1. New Construction
   2. State Agency Financed
   3. Substantial Rehabilitation
   4. Section 202/8
   5. Rural Housing Services Section 515/8
   6. Loan Management Set-Aside (LMSA)
   7. Property Disposition Set-Aside (PDSA)

B. Section 8 Housing Choice Voucher (including Project-Based Voucher and Project-Based Certificate)

C. Moderate Rehabilitation

In programs, other than HUD's section 8 programs, that follow the definition of annual income in 24 CFR part 5 (e.g. the Public Housing program), PHAs and other grantees may continue to exclude the full amount of student financial assistance from a person's annual income in accordance with 24 CFR § 5.609(c)(6).

The amended definition of tuition in section IV of this notice applies to all HUD programs. The income determination (section V) and verification requirements (section VI) may also apply to other HUD programs that follow 24 CFR part 5. Administrators and participants in those programs should contact the appropriate HUD program office overseeing your program if you have questions concerning the implementation of HUD's amended definition of tuition or the income determination and verification requirements for your program.

IV. Amended Definition of Tuition as Defined by the Department of Education

Prior to this Notice, when determining an applicant's or participant's income, HUD's definition of tuition required PHAs and O/As to defer to the definition of tuition used by the institution of higher education in which the student is enrolled. The definition can vary across institutions and academic programs. With the inclusion of "other required fees and charges" being added to the definition of tuition, PHAs and O/As may experience difficulty in determining income.

The Department of Education defines tuition as the amount of money charged to students for instructional services which may be charged per term, per course, or per credit. The Department of Education further defines tuition and fees as the amount of tuition and required fees covering a full academic year most frequently charged to students.[2] These values represent what a typical student would be charged and may not be the same for all students at an institution. If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an entire academic year is used to estimate average tuition. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception.[3] Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Expenses related to attending an institution of higher education must **not** be included as tuition. Examples of these expenses include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

---

[2] *See*, Integrated Postsecondary Education Data System Glossary for definition of "tuition" and "tuition and fees." Retrieved February 5, 2013, from http://nces.ed.gov/ipeds/glossary/?charindex=T

[3] *Id.*

V. Income Determination

In implementing the amended definition of tuition, for section 8 programs only, O/As and PHAs must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income in accordance with 24 CFR 5.609(b)(9).

Under other programs, such as the Public Housing program, the full amount of financial assistance a student receives while participating in the program continues to be excluded from the program participant's annual income pursuant to 24 CFR § 5.609(c)(6).

Example:
Kim, a 22 year old, married, participant in a Section 8 program is enrolled in a nursing program at her local community college. She is receiving $7,000 in financial assistance to cover the full cost of tuition and fees of $6,000 for the academic year. The $6,000 includes:

- $2,500 in tuition per semester (total $5,000) *plus*
- $500 in individual fees (total $1,000)—athletic fee, writing laboratory fee, student center fee, science laboratory fee, technology fee—charged to every student per semester.

In this example, the excess $1,000 ($7,000 - $6,000) Kim received in financial assistance will be included in her annual income in accordance with 24 CFR 5.609(b)(9).

Under HUD's previous definition of tuition, Kim's housing authority might have considered her financial assistance to be in excess of $2,000 if her college's definition of tuition did not include fees. Under HUD's new definition, Kim's housing authority will determine her excess financial assistance to be $1,000 rather than $2,000 because the required fees and charges are included with tuition.

Using the same example, if Kim was a participant in the Public Housing program, the full amount of financial assistance she received would be excluded from her income in accordance with 24 CFR § 5.609(c)(6).

VI. Verification of Tuition and Fees

O/As and PHAs must verify the amounts of tuition and required fees charged by the school when determining annual income. O/As and PHAs may wish to verify those amounts using the student's bill or account statement (including an online account statement) as provided by the school's bursar's office, or by contacting the bursar's office directly. It is also recommended that you visit the school's website as many institutions of higher education provide an itemized list covering tuition and fees that are charged to a majority of their students on their websites.

VII. Contact Information

For those administering or participating in programs administered by the Office of Multifamily Housing, please contact Kate Brennan via email, catherine.m.brennan@hud.gov should you have questions regarding this Notice. For those administering or participating in PIH programs, you may contact your local HUD Field Office of Public Housing. Persons with hearing or speech impairments may access their field office via TTY by calling the Federal Information Relay Service at (800) 877-8339.

/s/
Lourdes Castro Ramirez,
Principal Deputy Assistant Secretary
for Public and Indian Housing

Exhibit W. Confidentiality HUD Privacy Protection Guidance for Third Parties

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

SPECIAL ATTENTION OF:
Directors of HUD Regional and Field Offices of Public Housing;
Public Housing Agencies that Receive Funds under Any Public and Indian Housing Program

NOTICE PIH-2015-06

Issued: April 23, 2015

Expires: Effective until amended, superseded, or rescinded

Cross References:
PIH 2014-10, PIH 2010-15

Subject: U.S. Department of Housing and Urban Development (HUD) Privacy Protection Guidance for Third Parties

1) **Purpose**: This notice informs all public housing agencies (PHAs) about their responsibilities for safeguarding personally identifiable information (PII) required by HUD and preventing potential breaches of this sensitive data. HUD is committed to protecting the privacy of individuals' information stored electronically or in paper form, in accordance with federal privacy laws, guidance, and best practices. HUD expects its third party business partners, including Public Housing Authorities, who collect, use, maintain, or disseminate HUD information to protect the privacy of that information in accordance with applicable law.

   PIH 2014-14 is being revised to include guidance to assist PHA system administrators and users to fulfill their requirements for information technology security awareness training.

2) **Background**: Section 6 of the Housing Act of 1937, the Privacy Act of 1974, 5 U.S.C. § 552a (Privacy Act), The Freedom of Information Act (FOIA), 5 U.S.C. § 552, and Section 208 of The E-Government Act are the primary federal statutes that limit the disclosure of information about public housing residents and recipients of the Housing Choice Voucher program. In addition, the Housing and Community Development Act of 1987, 42 U.S.C. § 1437d (q)(4), 42 U.S.C. § 1437d (t)(2), 42 U.S.C. § 3543, and the Stewart B. McKinney Homeless Assistance Act of 1988, 42 U.S.C. § 3544, further regulate the treatment of this information.

   a) General HUD program requirements are set forth in 24 C.F.R. Part 5, Subpart B, Disclosure and Verification of Social Security Numbers and Employer Identification Numbers: Procedures for Obtaining Income Information. Subpart B enables HUD and

PHAs to obtain income information about applicants and participants in the covered programs through computer matches with State Wage Information Collection Agencies (SWICAs) and

Federal agencies, in order to verify an applicant's or participant's eligibility for or level of assistance.

i) *Restrictions on Use of Income Information Obtained from SWICA and Federal Agencies.* The restrictions of 42 U.S.C. 3544(c)(2)(A) apply to the use by HUD or a PHA of income information obtained from a SWICA and the restrictions of 42 U.S.C. 3544(c)(2)(A) and of 26 U.S.C. 6103(l)(7)(C) apply to the use by HUD or a PHA of income information obtained from the Internal Revenue Service or the Social Security Administration.

b) The Privacy Act and other requirements for grants and contracts is spelled out in 24 C.F.R. 5.212 which states:

i) *Compliance with the Privacy Act*. The collection, maintenance, use, and dissemination of SSNs, EINs, any information derived from SSNs and Employer Identification Numbers (EINs), and income information under this subpart shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

Privacy Act Notice. All assistance applicants shall be provided with a Privacy Act notice at the time of application. All participants shall be provided with a Privacy Act notice at each annual income recertification.

c) The Federal Acquisition Regulation (FAR), 48 C.F.R. 24.104, sets forth that compliance with the requirements of the Privacy Act be included in HUD contracts at clause 52.224-2, which provides in part:

(a) The Contractor agrees to—
(1) *Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act ….*

Similar language is included in all HUD Grant Agreements requiring the Grantee to comply with the provisions of the Privacy Act of 1974 and the agency rules and regulations issued under the Act. (See Attachments 1 and 2 for the above provisions)

d) Additional federal guidance on privacy protection is in OMB privacy-related memoranda, including:

i) OMB M-01-05, Guidance on Inter-Agency Sharing of Personal Data – Protecting Personal Privacy

ii) OMB M-03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002

iii) OMB M-04-26, Personal Use Policies and —File Sharing Technology

iv) OMB M-05-08, Designation of Senior Agency Officials for Privacy

v) OMB M-06-15, Safeguarding Personally Identifiable Information

vi) OMB M-06-16, Protection of Sensitive Agency Information

vii) OMB M-06-19, Reporting Incidents Involving Personally Identifiable Information and Incorporating the Cost for Security in Agency Information Technology Investments

viii) OMB Memo, September 20, 2006, Recommendations for Identity Theft Related Data Breach Notification Guidance

ix) OMB M-07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information

x) OMB M-14-04, FY 2013 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management (FISMA). FISMA requires federal agencies to implement a mandatory set of processes designed to ensure the confidentiality, integrity, and availability of system related information. FISMA requires program officials, and the head of each agency, to conduct annual reviews of information security programs, with the intent of keeping risks at or below specified acceptable levels in a cost-effective, timely, and efficient manner.

e) Definitions

As used in this Notice, the following terms are defined as:

i) Personally Identifiable Information (PII). Defined in OMB M-07-16 as ". . . information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc."

ii) Sensitive Personally Identifiable Information. PII that when lost, compromised or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

3) **Guidance on Protecting Sensitive Privacy Information**: The Privacy Act requires that federal agencies maintain only such information about individuals that is relevant and necessary to accomplish its purpose. The Privacy Act also requires that the information be maintained in systems or records – electronic and paper – that have the appropriate administrative, technical, and physical safeguards to protect the information, however current. This responsibility extends to contractors and third party business partners, such as Public Housing Authorities, who are required to maintain such systems of records by HUD.

a) Contractors and third party business partners should take the following steps to help ensure compliance with federal requirements:

i) Security Awareness and Privacy Training

(1) The National Institute of Standards and Technology (NIST) publishes templates and guides for what security awareness trainings should entail in order to be FISMA compliant. These guidelines focus on the following key aspects:

- **Confidentiality** - Protecting information from unauthorized access and disclosure.

- **Integrity** - Assuring the reliability and accuracy of information and IT resources by guarding against unauthorized information modification or destruction.
- **Availability** - Defending information systems and resources to ensure timely and reliable access and use of information. As such, systems are vulnerable to misuse, interruptions and manipulation.
- **Threat**- A threat in the case of IT security is the potential to cause unauthorized disclosure, unavailability, changes, or destruction of protected information.
- **Vulnerability**- Any flaw or weakness that can be exploited and could result in a breach or a violation of a system's security policy
- **Risk** is the likelihood that a threat will exploit vulnerability.
- **Controls** are policies, procedures, and practices designed to decrease the likelihood, manage the impact, or minimize the effect of a threat exploiting a vulnerability

(2) Additionally, the NIST provides publications for reference on Building an Information Technology Security Awareness and Training Program and Security and Privacy Controls for Federal Information Systems and Organizations

(3) PHAs should maintain adequate documentation that supports the training for all staff as well as maintain auditable records of training completion. Although there is not required reporting on the training, Office of Field Operations personnel may spot-check compliance on on-site visits.

ii) Limit Collection of PII

(1) Do not collect or maintain sensitive PII without proper authorization. Collect only the PII that is needed for the purposes for which it is collected.

(2) Consistent with the provisions of this Notice, PHAs may enter into agreements (or in some cases be required) to provide PII to legitimate researchers under contract or other agreement with HUD to support studies on the effects and operations of HUD programs. Further, HUD encourages PHAs to supply PII to other legitimate researchers who do not have contracts or other agreements with HUD in support of such studies, so long as the PHA in question has taken reasonable precautions to prevent disclosure of PII outside of the research team. Such reasonable precautions generally involve written agreements between the PHA and one or more researchers that specify the legal obligations of the latter to protect PII from disclosure.

iii) Manage Access to Sensitive PII

(1) Only share or discuss sensitive PII with those personnel who have a need to know for purposes of their work. Challenge anyone who asks for access to sensitive PII for which you are responsible.

(2) Do not distribute or release sensitive PII to other employees, contractors, or other third parties unless you are first convinced that the release is authorized, proper and necessary.

(3) When discussing sensitive PII on the telephone, confirm that you are speaking to the right person before discussing the information and inform him/her that the discussion will include sensitive PII.

(4) Never leave messages containing sensitive PII on voicemail.

(5) Avoid discussing sensitive PII if there are unauthorized personnel, contractors, or guests in the adjacent cubicles, rooms, or hallways who may overhear your conversations.

(6) Hold meetings in a secure space (i.e., no unauthorized access or eavesdropping possible) if sensitive PII will be discussed and ensure that the room is secured after the meeting.

(7) Treat notes and minutes from such meetings as confidential unless you can verify that they do not contain sensitive PII.

(8) Record the date, time, place, subject, chairperson, and attendees at any meeting involving sensitive PII.

iv) Protect Hard Copy and Electronic Files Containing Sensitive PII

(1) Clearly label all files containing sensitive PII by placing appropriate physical labels on all documents, removable media such as thumb drives, information systems, and application. Examples of appropriate labels might include —For Official Use Only or —For (Name of Individual/Program Office) Use Only.

(2) Lock up all hard copy files containing sensitive PII in secured file cabinets and do not leave unattended.

(3) Protect all media (e.g., thumb drives, CDs, etc.,) that contain sensitive PII and do not leave unattended. This information should be maintained either in secured file cabinets or in computers that have been secured.

(4) Keep accurate records of where PII is stored, used, and maintained.

(5) Periodically audit all sensitive PII holdings to make sure that all such information can be readily located.

(6) Secure digital copies of files containing sensitive PII. Protections include encryption, implementing enhanced authentication mechanisms such as two- factor authentication, and limiting the number of people allowed access to the files.

(7) Store sensitive PII only on workstations that can be secured, such as workstations located in areas that have restricted physical access.

v) Protecting Electronic Transmissions of Sensitive PII via fax, email, etc.

(1) When faxing sensitive PII, use the date stamp function, confirm the fax number, verify that the intended recipient is available, and confirm that he/she has received the fax. Ensure that none of the transmission is stored in memory on the fax machine, that the fax is in a controlled area, and that all paper waste is disposed of properly (e.g., shredded). When possible, use a fax machine that uses a secure transmission line.

(2) Before faxing PII, coordinate with the recipient so that the PII will not be left unattended on the receiving end.

(3) When faxing sensitive PII, use only individually-controlled fax machines, not central receiving centers.

(4) Do not transmit sensitive PII via an unsecured information system (e.g., electronic mail, Internet, or electronic bulletin board) without first encrypting the information.

(5) When sending sensitive PII via email, make sure both the message and any attachments are encrypted.

(6) Do not place PII on shared drives, multi-access calendars, the Intranet, or the Internet.

vi) Protecting Hard Copy Transmissions of Files Containing Sensitive PII

(1) Do not remove records about individuals with sensitive PII from facilities where HUD information is authorized to be stored and used unless approval is first obtained from a supervisor. Sufficient justification, as well as evidence of information security, must been presented.

(2) Do not use interoffice or translucent envelopes to mail sensitive PII. Use sealable opaque solid envelopes. Mark the envelope to the person's attention.

(3) When using the U.S. postal service to deliver information with sensitive PII, double-wrap the documents (e.g., use two envelopes – one inside the other) and mark only the inside envelope as confidential with the statement —To Be Opened by Addressee Only.

vii) Records Management, Retention, and Disposition

(1) Follow records management laws, regulations, and policies applicable within your jurisdiction.

(2) Ensure all Public Housing Authority locations and all entities acting on behalf of the Authority are managing records in accordance with applicable laws, regulations, and policies.

(3) Include records management practices as part of any scheduled oversight protocols.

(4) Do not maintain records longer than required.

(5) Destroy records after retention requirements are met.

(6) Dispose of sensitive PII appropriately – use cross-cut shredders or burn bags for hard copy records and permanently erase (not just delete) electronic records.

viii) Incident Response

(1) Supervisors should ensure that all personnel are familiar with reporting procedures.

(2) Promptly report all suspected compromises of sensitive PII related to HUD

programs and projects to HUD's National Help Desk at 1-888-297-8689.

ix) Contact Information

Inquiries about this notice should be directed to Matthew Steen, Privacy Liaison Officer, Real Estate Assessment Center, Office of Public and Indian Housing, at 202-475-8933.

x) Paperwork Reduction Act. The information collection described in this Notice has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a

collection of information unless the collection displays a currently valid OMB control number.

/s/ Lourdes Castro Ramírez,
Principal Deputy Assistant Secretary for
Public and Indian Housing

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

SPECIAL ATTENTION OF:
Directors of HUD Regional and Field Offices of Public Housing;
Public Housing Agencies that Receive Funds under
Any Public and Indian Housing Program

NOTICE PIH 2010-15 (HA)

Issued: May 6, 2010

Expires: May 31, 2011

Cross References:

Subject: U.S. Department of Housing and Urban Development (HUD) Privacy Protection Guidance for Third Parties

1) **Purpose**: This notice informs all Public Housing Authorities (PHAs) about their responsibilities for safeguarding personally identifiable information (PII) required by HUD and preventing potential breaches of this sensitive data. HUD is committed to protecting the privacy of individuals' information stored electronically or in paper form, in accordance with federal privacy laws, guidance, and best practices. HUD expects its third party business partners, including Public Housing Authorities, who collect, use, maintain, or disseminate HUD information to protect the privacy of that information in accordance with applicable law.

2) **Background**: Section 6 of the Housing Act of 1937, the Privacy Act of 1974, 5 U.S.C. § 552a (Privacy Act), The Freedom of Information Act (FOIA), 5 U.S.C. § 552, and Section 208 of The E-Government Act are the primary federal statutes that limit the disclosure of information about public housing residents and recipients of the Housing Choice Voucher program. In addition, the Housing and Community Development Act of 1987, 42 U.S.C. § 1437d(q)(4), 42 U.S.C. § 1437d (t)(2), 42 U.S.C. § 3543, and the Stewart B. McKinney Homeless Assistance Act of 1988, 42 U.S.C. § 3544, further regulate the treatment of this information.

   a) General HUD program requirements are set forth in 24 C.F.R. Part 5. Compliance with the Privacy Act and other requirements for grants and contracts is spelled out in 24 C.F.R. § 5.212 which states:

      i) *Compliance with the Privacy Act*. The collection, maintenance, use, and dissemination of SSNs, EINs, any information derived from SSNs and Employer Identification Numbers (EINs), and income information under this subpart shall be

conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

ii) *Privacy Act Notice*. All assistance applicants shall be provided with a Privacy Act notice at the time of application. All participants shall be provided with a Privacy Act notice at each annual income recertification.

The Federal Acquisition Regulation (FAR), 48 C.F. R. Subpart 1524.1, sets forth that compliance with the requirements of the Privacy Act be included in HUD contracts at clause 52.224-2, which provides in part:

> ...(a) The Contractor agrees to—
> (1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act ....

Similar language is included in all HUD Grant Agreements requiring the Grantee to comply with the provisions of the Privacy Act of 1974 and the agency rules and regulations issued under the Act. (See Attachments 1 and 2 for the above provisions)

b) Additional federal guidance on privacy protection is in OMB privacy-related memoranda, including:

i) OMB M-01-05, Guidance on Inter-Agency Sharing of Personal Data – Protecting Personal Privacy
ii) OMB M-03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002
iii) OMB M-04-26, Personal Use Policies and ? File Sharing? Technology
iv) OMB M-05-08, Designation of Senior Agency Officials for Privacy
v) OMB M-06-15, Safeguarding Personally Identifiable Information
vi) OMB M-06-16, Protection of Sensitive Agency Information
vii) OMB M-06-19, Reporting Incidents Involving Personally Identifiable Information and Incorporating the Cost for Security in Agency Information Technology Investments
viii) OMB Memo, September 20, 2006, Recommendations for Identity Theft Related Data Breach Notification Guidance
ix) OMB M-07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information
x) OMB M-09-29, FY 2009 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management

c) Definitions

As used in this Notice, the following terms are defined as:

i) Personally Identifiable Information (PII). Defined in OMB M-07-16 as ". . . information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc."

ii) Sensitive Personally Identifiable Information. PII that when lost, compromised or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

3) **Guidance on Protecting Sensitive Privacy Information**: The Privacy Act requires that federal agencies maintain only such information about individuals that is relevant and necessary to accomplish its purpose. The Privacy Act also requires that the information be maintained in systems or records – electronic and paper – that have the appropriate administrative, technical, and physical safeguards to protect the information, however current. This responsibility extends to contractors and third party business partners, such as Public Housing Authorities, who are required to maintain such systems of records by HUD.

a) Contractors and third party business partners should take the following steps to help ensure compliance with these requirements:

i) Limit Collection of PII

(1) Do not collect or maintain sensitive PII without proper authorization. Collect only the PII that is needed for the purposes for which it is collected.

ii) Manage Access to Sensitive PII

(1) Only share or discuss sensitive PII with those personnel who have a need to know for purposes of their work. Challenge anyone who asks for access to sensitive PII for which you are responsible.

(2) Do not distribute or release sensitive PII to other employees, contractors, or other third parties unless you are first convinced that the release is authorized, proper and necessary.

(3) When discussing sensitive PII on the telephone, confirm that you are speaking to the right person before discussing the information and inform him/her that the discussion will include sensitive PII.

(4) Never leave messages containing sensitive PII on voicemail.

(5) Avoid discussing sensitive PII if there are unauthorized personnel, contractors, or guests in the adjacent cubicles, rooms, or hallways who may overhear your conversations.

(6) Hold meetings in a secure space (i.e., no unauthorized access or eavesdropping possible) if sensitive PII will be discussed and ensure that the room is secured after the meeting.

(7) Treat notes and minutes from such meetings as confidential unless you can verify that they do not contain sensitive PII.

(8) Record the date, time, place, subject, chairperson, and attendees at any meeting involving sensitive PII.

iii) Protect Hard Copy and Electronic Files Containing Sensitive PII

(1) Clearly label all files containing sensitive PII by placing appropriate physical labels on all documents, removable media such as thumb drives, information systems, and application. Examples of appropriate labels might include ? For Official Use Only? or ? For (Name of Individual/Program Office) Use Only. ?

(2) Lock up all hard copy files containing sensitive PII in secured file cabinets and do not leave unattended.

(3) Protect all media (e.g., thumb drives, CDs, etc.,) that contain sensitive PII and do not leave unattended. This information should be maintained either in secured file cabinets or in computers that have been secured.

(4) Keep accurate records of where PII is stored, used, and maintained.

(5) Periodically audit all sensitive PII holdings to make sure that all such information can be readily located.

(6) Secure digital copies of files containing sensitive PII. Protections include encryption, implementing enhanced authentication mechanisms such as two-factor authentication and limiting the number of people allowed access to the files.

(7) Store sensitive PII only on workstations that can be secured, such as workstations located in areas that have restricted physical access.

iv) Protecting Electronic Transmissions of Sensitive PII via fax, email, etc.

(1) When faxing sensitive PII, use the date stamp function, confirm the fax number, verify that the intended recipient is available, and confirm that he/she has received the fax. Ensure that none of the transmission is stored in memory on the fax

machine, that the fax is in a controlled area, and that all paper waste is disposed of properly (e.g., shredded). When possible, use a fax machine that uses a secure transmission line.

(2) Before faxing PII, coordinate with the recipient so that the PII will not be left unattended on the receiving end.

(3) When faxing sensitive PII, use only individually-controlled fax machines, not central receiving centers.

(4) Do not transmit sensitive PII via an unsecured information system (e.g., electronic mail, Internet, or electronic bulletin board) without first encrypting the information.

(5) When sending sensitive PII via email, make sure both the message and any attachments are encrypted.

(6) Do not place PII on shared drives, multi-access calendars, the Intranet, or the Internet.

v) Protecting Hard Copy Transmissions of Files Containing Sensitive PII

(1) Do not remove records about individuals with sensitive PII from facilities where HUD information is authorized to be stored and used unless approval is first obtained from a supervisor. Sufficient justification, as well as evidence of information security, must been presented.

(2) Do not use interoffice or translucent envelopes to mail sensitive PII. Use sealable opaque solid envelopes. Mark the envelope to the person's attention.

(3) When using the U.S. postal service to deliver information with sensitive PII, double-wrap the documents (e.g., use two envelopes – one inside the other) and mark only the inside envelope as confidential with the statement ? To Be Opened By Addressee Only.?

vi) Records Management, Retention and Disposition

(1) Follow records management laws, regulations, and policies applicable within your jurisdiction.

(2) Ensure all Public Housing Authority locations and all entities acting on behalf of the Authority are managing records in accordance with applicable laws, regulations, and policies.

(3) Include records management practices as part of any scheduled oversight protocols.

(4) Do not maintain records longer than required.

(5) Destroy records after retention requirements are met.

(6) Dispose of sensitive PII appropriately – use cross-cut shredders or burn bags for hard copy records and permanently erase (not just delete) electronic records.

vii) Incident Response

(1) Supervisors should ensure that all personnel are familiar with reporting procedures.

(2) Promptly report all suspected compromises of sensitive PII related to HUD programs and projects to HUD's National Help Desk at 1-888-297-8689.

4) **Information Contact.** Inquiries about this notice should be directed to Donna Robinson-Staton in the Office of the Chief Information Officer, at 708-5495 ext. 8073.

5) **Paperwork Reduction Act.** The information collection described in this Notice has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing

Exhibit X. Eligibility of Independent Students for Assisted Housing

identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents.

[FR Doc. 2016–22587 Filed 9–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5969–N–01]

Eligibility of Independent Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Additional Supplementary Guidance

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, and Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On December 30, 2005, HUD published a final rule (FR–5036–F–01), ''Eligibility of Students for Assisted Housing under Section 8 of the U.S. Housing Act of 1937'', implementing section 327 of the agency's Fiscal Year 2006 appropriations, Title III of Public Law 109–115, 119 Stat. 2936, approved November 30, 2005 (2006 HUD Appropriations Act). Section 327 requires that if an individual is enrolled at an institution of higher education (*i.e.*, student) is under the age of 24, is not a veteran, is unmarried and does not have a dependent child, is individually ineligible for assistance under section 8 of the United States Housing Act of 1937 (section 8 assistance), or the student's parents are, individually or jointly, ineligible for assistance, no section 8 assistance can be provided to the student.

On April 10, 2006, HUD published supplemental guidance to assist providers in implementing the final rule. That supplemental guidance provided a list of items that Public Housing Agencies, Owners, and Managers are required to verify when determining whether a student's income alone should be used to determine section 8 eligibility, and this notice updates that list of items to remain consistent with the U.S. Department of Education's definition of ''independent student,'' and reduce barriers for vulnerable youth to receive assistance and continue their education.

FOR FURTHER INFORMATION CONTACT: Rebecca L. Primeaux, Director, Housing Voucher Management and Operations Division, Office of Public and Indian Housing, Room 4214, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–8000, telephone (202) 402–6050 (this is not a toll-free number), or Danielle D. Garcia, Branch Chief, Multifamily Housing, Assisted Housing Oversight Division, Room 6148, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–8000, telephone (202) 402–2768 (this is not a toll-free number). Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION

I. Background

Section 327 of HUD's Fiscal Year 2006 appropriations, Title III of Public Law 109–115, 119 Stat. 2936, approved November 30, 2005 (2006 HUD Appropriations Act), introduced new restrictions on providing housing assistance to students of higher education under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (1937 Act). On December 30, 2005, at 70 FR 77742, HUD published a final rule implementing section 327 of the Act (Section 327) in accordance with the statutory requirement that HUD issue a final rule no later than 30 days following enactment of the 2006 HUD Appropriations Act. HUD's rule implementing the statute prohibits section 8 assistance to an individual who is enrolled at an institution of higher education (*i.e.*, students), is under the age of 24, is not a veteran, is unmarried, does not have a dependent child, and is individually ineligible for section 8 assistance or has parents who are, individually or jointly, ineligible on the basis of income to receive assistance.

On April 10, 2006, at 71 FR 18146, HUD issued supplementary guidance to further assist Public Housing Agencies (PHAs) and multifamily project owners and management agents (Owners and Managers) with the implementation of the new eligibility restrictions (2006 supplementary guidance). HUD's 2006 supplementary guidance provided certain exceptions to the requirement that the eligibility of a student seeking section 8 assistance would be determined based on income eligibility for the assistance by both the student and the student's parents. HUD's 2006 supplementary guidance explained that a student, under the age of 24 who meets the additional criteria of Section 327, may still be income eligible for assistance in circumstances where the student can demonstrate independence from parents, where the student can demonstrate the absence of parents, or where an examination of the student's parents' income may not be relevant. The 2006 supplementary guidance instructs PHAs, Owners, and Managers to consider certain criteria, including but not limited to, whether:

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

(2) The individual has established a household separate from parents or legal guardians for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of an ''independent student.'' Section 480(d) of the Higher Education Act of 1965, as amended (the HEA), 20 U.S.C. 1087vv(d).

(3) The individual is not claimed as a dependent by parents or legal guardians pursuant to IRS regulations.

(4) The individual obtains a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support, even if no assistance will be provided.

The 2006 supplemental guidance also provided a list of items that PHAs, Owners, and Managers must verify to determine whether a student is independent for purposes of using the student's income alone for determining Section 8 eligibility (Student's Independence Verification Requirements). Those items include:

(1) Previous address information to determine evidence of a separate household, or verifying the student meets the U.S. Department of Education's definition of ''independent student'';

(2) prior year income tax returns to verify if a parent or guardian has claimed the student as a dependent, except if the student meets the Department of Education definition of ''independent student''; and

(3) written certification by a parent of the amount of financial support that parent provides to the student, or written certification that the parent provides no financial support to the student.

HUD also adopted in Appendix A of the 2006 supplementary guidance the U.S. Department of Education's (ED) definition of ''independent student'' from the HEA. ED's definition provided that an ''independent student'' is a student who meets one or more of the following criteria: (a) Is at least 24 years old by December 31 of the award year for which aid is sought; (b) is an orphan or a ward of the court through the age of 18; (c) is a veteran of the United States Armed Forces; (d) has legal dependents other than a spouse (for

example, dependent children or an elderly dependent parent); (e) is a graduate or professional student; or, (f) is married.[1]

In 2007, the HEA definition was amended and expanded in Section 604 of the College Cost Reduction and Access Act of 2007 (Public Law 110–84, 121 Stat. 784, approved September 27, 2006). The College Cost Reduction and Access Act added new criteria to the definition of ''independent student'' to include broadening the category of students who were orphans or wards of the court at age 18 to include those who were orphans, in foster care, or were wards of the court at any time when the individual was 13 years of age or older; it added those students who are or were emancipated or in legal guardianship; and added unaccompanied youths who are homeless or who are at risk of homelessness. This new definition was adopted by ED in guidance.

II. Definition of ''Independent Student''

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

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

a. The individual is 24 years of age or older by December 31 of the award year;

b. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age of older;

c. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;

d. The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;

e. The individual is a graduate or professional student;

f. The individual is a married individual;

g. The individual has legal dependents other than a spouse;

h. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 *et seq.*), or as unaccompanied, at risk of homelessness, and self-supporting, by—

(i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;

(ii) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;

(iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or

(iv) a financial aid administrator; or

i. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.[2]

III. Student's Independence Verification Requirements

HUD is also amending the Student's Independence Verification Requirements set out in the 2006 supplementary guidance. These requirements may create barriers for youth, and especially vulnerable youth (*i.e.*, unaccompanied homeless youth, at risk of being homeless youth, and youth who have aged out of foster system), to receive assistance and continue their education, as many of these youth are not connected to their parents or caregivers to obtain the information necessary to show they are ''independent'' under HUD's current guidance. Therefore, HUD is clarifying that the tax return requirement only applies to providing the student's tax returns and not that of the student's parents.

HUD also provides through this guidance that an individual who meets ED's ''independent student'' definition in paragraph (b), (c), or (h), as adopted in Section II of this notice, are considered ''vulnerable youth'' for purposes of this guidance, and provides that when a PHA, owner or manager determines an individual is a ''vulnerable youth'' such determination is all that is necessary to determine a person is an ''independent student'' for purposes of using only the student's income for determining eligibility for section 8 assistance. The new Student's Independence Verification Requirements are as follows:

PHAs, Owners, and Managers of section 8 assistance will need to verify a student's independence from his or her parents to determine that the student's parents' income is not relevant for determining the student's eligibility for assistance by doing all of the following:

(1) Reviewing and verifying previous address information to determine evidence of a separate household or verifying the student meets the U.S. Department of Education's definition of ''independent student'';

(2) Reviewing a student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of ''independent student''; and

(3) Verifying income provided by a parent by requiring a written certification from the individual providing the support. Certification is also required if the parent is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income. (Except if the student meets the Department of Education's definition of ''independent student'' in paragraphs (b), (c) or (h) adopted in section II of this notice).

This guidance and HUD's rule focus on a student under the age of 24 who meets the additional requirements of section 327 and who is not residing in a section 8 assisted unit with his or her parents, but who is individually seeking to reside in a section 8 assisted unit. Neither the rule nor this guidance applies to students residing with their parents in a section 8 assisted unit or who reside with parents who are applying to receive section 8 assistance.

Dated: September 16, 2016.

Lourdes Castro Ramirez,

Principal Deputy Assistant Secretary for Public and Indian Housing.

Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

[FR Doc. 2016–22727 Filed 9–20–16; 8:45 am]

BILLING CODE 4210–67–P

[1] The Higher Education Act of 1965. 20 U.S.C. 1087vv(d). See also Jeffrey R. Andrade, ''Dear Colleague'' Letter, U.S. Dep't of Educ. (May 2, 2003), *https://ifap.ed.gov/dpcletters/GEN0307.html.*

[2] These letters reflect the numbering used in the HEA definition of ''independent'' for use in this notice.

Exhibit Y. NOTICE PIH 2017-21 (HA)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

SPECIAL ATTENTION OF:

Public Housing Agencies Public Housing Agencies that Administer the Housing Choice Voucher Program; Owners; Other Grantees

NOTICE PIH 2017–21 (HA)

Issued: October 30, 2017

This notice remains in effect until amended, superseded, or rescinded

CROSS REFERENCES

Notice PIH 2009–51
Notice PIH 2011–28

Notice PIH 2011–65 (HA)

Notice PIH 2012–21 (HA)

Notice PIH 2012–32 (HA) H 2017–03, REV-3
Notice PIH 2013–27

Notice PIH 2015–18
Notice PIH 2016–05

SUPERSEDES

Notice PIH 2002–22

Notice PIH 2006–16
Notice PIH 2011–54
Notice PIH 2015–05

Notice PIH 2015–10

Subject: Implementation Guidance: Housing Opportunity Through Modernization Act of 2016 (HOTMA) — Housing Choice Voucher (HCV) and Project-Based Voucher (PBV) Provisions

I. Purpose

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) made changes to both the definition of PHA-owned housing (for project-

based and tenant- based vouchers) and the project-based voucher (PBV) program. This notice provides guidance on those changes. The provisions covered by this notice were implemented through a *Federal Register* (FR) notice (82 FR 5458) published on January 18, 2017. HUD then published a follow-up notice at 82 FR 32461 on July, 14, 2017, with technical corrections and clarifications to the January 18, 2017, notice (see Part IV

below). The January 18, 2017, notice, as revised by the technical correction notice, is referred to as the "January 18, 2017, implementation notice" throughout this notice.

To consolidate PBV guidance, HUD has incorporated content from previous PBV notices into this notice. See Section V, below, for a list of such notices.

II. Background

On July 29, 2016, HOTMA was signed into law (Public Law 114–201, 130 Stat. 782). HOTMA made numerous changes to statutes that govern HUD programs, including section 8 of the United States Housing Act of 1937 ("the Act") (42 U.S.C. 1437f). On January 18, 2017, HUD published a notice (82 FR 5458) to implement various HCV provisions, including a new statutory definition of PHA-owned housing (§105 of HOTMA) and changes to the PBV program (§106 of HOTMA). The provisions went into effect on April 18, 2017. This PIH notice provides further guidance on the implementation of these provisions.

The January 18, 2017, implementation notice also implemented two provisions related to inspections for HCV tenant-based and PBV assistance (§101(a)(1) of HOTMA) (see Notice PIH 2017–20, issued October 27, 2017) and a change to the HCV housing assistance payment (HAP) calculation for families who own manufactured housing and are renting the manufactured home space (§112 of HOTMA) (guidance will be published separately).

The following HOTMA provisions relating to the PBV program were not implemented by the January 18, 2017, implementation notice and consequently are not covered in this notice:

1. Section 106(a)(4)(iii), authorizing a PHA to enter into a PBV HAP Contract for any unit that does not qualify as existing housing and is under construction or recently has been constructed regardless of whether the PHA and owner executed an Agreement to Enter a Housing Assistance Payments Contract (AHAP);
2. Section 106(a)(6), authorizing for the use of an operating cost adjustment factor to adjust PBV contract rents;
3. Section 106(a)(7), authorizing the use of owner-maintained, site-based waiting lists for PBV units; and
4. Section 106(a)(8), concerning the environmental review requirements for existing housing.

III. Structure

This notice is comprised of attachments and appendices. Each attachment follows a uniform structure:

1. Title
2. Regulation
3. HOTMA Reference
4. Applcable Program(s)
5. Summary of Change
6. Content

IV. Summary of Technical Corrections

The July, 14, 2017, notice published at 82 FR 32461 ("technical correction notice") corrected several typographic errors and made the following technical corrections and clarifications to the January 18, 2017, implementation notice. All of the corrections and clarifications are reflected in the respective attachments to this PIH notice and are summarized here in the order in which they appear in this notice solely for the sake of convenience:

1. PHA-Owned Units (Attachment A). The original notice used the phrase "50 percent or more" to define a level of control that constitutes a controlling interest and would thus indicate PHA ownership. The technical correction notice replaces that phrase with "more than 50 percent."

2. Percentage Limitation (Program Cap) (Attachment C). The original notice stated that new construction units will qualify for replacement housing if they are located on the "site of the original public housing development." The technical correction notice strikes the phrase "public housing," making clear that the requirement applies broadly to all covered forms of housing assistance that are excluded from the percentage limitation.

3. Income-Mixing Requirement (Project Cap) (Attachment E).

    a. *Supportive services.* HOTMA provides that a family can no longer be required to participate in supportive services as a condition of living in a unit in order for that unit to meet the supportive services exception. The technical correction clarifies therefore that a PHA may not rely solely on a supportive services program that requires a family to engage in supportive services, such as the Family Self-Sufficiency (FSS) program, in order for the unit to meet the supportive services exception.. Also, the original noticed stated that if a family "fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit…and the PHA shall cease paying housing assistance payments." HUD determined that this provision could be wrongly construed in a way that conflicts with current FSS requirements, which do not allow termination from the housing assistance program for failure to complete the FSS contract.

    b. *25 percent cap.* The technical correction notice clarifies that the income-mixing cap for projects that are in a census tract with a poverty rate of 20 percent or less is increased from 25 to 40 percent.

    c. *Definition of new construction.* The technical correction notice makes the definition of new construction units that qualify for an exception to the project cap the same as the definition for new construction that applies to the exception for the PBV percentage limitation.

4. Units Not Subject to Percentage Limitation or Income-Mixing Requirement (Attachment F). The original notice excluded from the list of excepted units those units that received assistance under section 201 of the Housing and

Community Development Amendments of 1978 (Flexible Subsidy program). The technical correction notice clarifies that such units are excepted from both the percentage limitation and the income-mixing requirement.

5. Attaching PBV to Certain PHA-Owned Projects Without Following a Competitive Process (Attachment L). The original notice applied a per-unit cost rehabilitation threshold to all replacement housing, including existing housing. The technical correction notice makes clear that there is no per-unit cost requirement for existing housing owned or controlled by a PHA.

V. Notices Superseded by this Notice

To consolidate PBV guidance, the Department has incorporated content from previous PBV notices into this notice. Specifically, this notice supersedes PIH Notices 2002– 22, 2006–16, 2011–54, 2015–05, and 2015–10 in their entirety, as described below:

1. Notice PIH 2002–22 (Units with Low-Income Housing Tax Credit Allocations Combined with Housing Choice Voucher Assistance under the Tenant-Based and Project-Based Programs). This notice is rescinded. The provisions of PIH 2002–22 (which were promulgated before HUD had implemented a PBV regulation) align with current PBV regulations, and are thus no longer necessary in a notice. PBV rents for Low Income Housing Tax Credit (LIHTC) units under existing and prospective PBV HAP contracts are determined in accordance with PBV regulations at 24 CFR §983.301.

2. Notice PIH 2006–16 (Project-Based Voucher Units with Low-Income Housing Tax Credit Allocations). This notice is rescinded. The "grandfathering" of PBV projects under PIH 2006–16 is no longer necessary, because PBV rents are no longer capped at the LIHTC rent as they once were. PBV rents for LIHTC units under existing and prospective PBV HAP contracts are determined in accordance with PBV regulations at 24 CFR §983.301.

3. Notice PIH 2011–54 (Guidance on the Project-Based Voucher Program):

    a. "PHA-owned units" is revised by HOTMA, in which a statutory definition of such units was enacted. (Attachment A)

    b. "Proposal Selection Process" is revised by HOTMA to authorize a PHA to attach PBV assistance to certain PHA-owned projects without following a competitive process. (Attachment L)

    c. Most remaining portions of Notice PIH 2011–54 are unchanged by HOTMA and are included as an appendix to this notice. Note that additional PBV provisions not covered in PIH 2011–54 are also included as part of Appendix II. (Appendix II)

4. Notice PIH 2015–05 (Project-Based Voucher (PBV) Guidance):

   a. "Section I – Timely Reporting of the Family Report (form HUD-50058 and form HUD 50058 MTW) into the Inventory Management System/Public Indian Housing Information Center (IMS/PIC) and Timely Submission Into the Voucher Management System (VMS) for Project Based Vouchers" is adopted with updates to VMS reporting per

VMS *User's Manual* release 8.9.0.0 (April 2016). (Appendix III)

b. "Section II – Maximum Amount of PBV Assistance (20 Percent Limit) in the PBV Program and PHA Submission requirements under 24 CFR 983.6(d)" is superseded by HOTMA, under which a PHA may project-base up to 20 percent of its Consolidated Annual Contributions Contract authorized units, instead of 20 percent of its voucher budget authority. This notice revises the requirements for PHA notification to HUD of the intent to project-base. (Attachments C and D)

c. "Section III – PHA-Owned Units under the PBV Program" is superseded by HOTMA, which revises the definition of PHA-owned units. This notice also covers the role of the independent entity with respect to PHA-owned units. (Attachments A and B)

5. Notice PIH 2015–10 (Project-Basing HUD-Veterans Affairs Supportive Housing (VASH) Vouchers. HOTMA authorizes PHAs to project-base Family Unification Program (FUP) and HUD-Veterans Affairs Supportive Housing (VASH) vouchers without requiring additional HUD approval. Prior to HOTMA, PHAs were prohibited from project-basing vouchers awarded for FUP. HUD-VASH vouchers could be project-based, but required HUD review and approval in accordance with Notice PIH 2015–10 (this applied to HUD- VASH vouchers the PHA chose to project-base and not to HUD-VASH units awarded under a HUD-VASH PBV allocation as described in Attachment F of this notice). This notice supersedes PIH 2015–10 in its entirety.

VI. Applicability to Moving to Work (MTW) Agencies

This notice applies generally to MTW agencies. With respect to any individual MTW agency that is required to submit an Annual MTW Plan to HUD for approval, any specific regulatory provisions addressed in this notice that have been waived as part of the agency's approved Annual MTW Plan do not apply to that agency.

VII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. The information collection requirements of this notice were assigned OMB Control Number 2577–0169.

Dominique Blom
General Deputy Assistant Secretary for
Public and Indian Housing

Exhibit Z. Mainstream Vouchers

DALLAS COUNTY
HEALTH AND HUMAN SERVICES
(HOUSING DIVISION)

PHILIP HUANG, MD, MPH
DIRECTOR

MAINSTREAM VOUCHER

The Mainstream Housing Opportunities for Persons with Disabilities (Mainstream) Program is a targeted voucher program for families with disabilities to allow such persons to rent affordable private housing. The program assist persons with disabilities who often face difficulties in locating suitable and accessible housing in the private market.

The Mainstream Vouchers are to be subject to all Housing Choice Voucher Program requirements including those at24 CFR Part 982 or Part 983 if vouchers are Project Based.

Metro Dallas Homeless Alliance (MDHA) and Dallas County on behalf of Dallas County Health and Human Services (DCHHS) entered a Memorandum of understanding (MOU) to establish and maintain collaboration in the provision of services in an effort to expand the housing program to assist nonelderly persons (under the age of 62) with disabilities. The program provides rental subsidy for current enrollees in Permanent Supportive Housing (PSH) programs identified and referred by MDHA through this collaboration. **Please refer to Exhibit Z.**

2377 North Stemmons Freeway, Suite 700, LB-16
Dallas, Texas 75207-2710

Office (214) 819-1871
FAX (214) 819-2828
REV C

COURT ORDER 2020-0614

Memorandum of Understanding between Dallas County Health and Human Services (DCHHS) and Metro Dallas Homeless Alliance (MDHA) - Mainstream Voucher Program

On a motion made by Commissioner JJ Koch, and seconded by Commissioner Dr. Elba Garcia, the following order was passed and adopted by the Commissioners Court of Dallas County, State of Texas:

BRIEFING DATE: June 16, 2020
FUNDING SOURCE: N/A

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve the MOU between DCHHS and MDHA and authorize the County Judge to sign the agreement for this purpose.

Done in open Court June 16, 2020 by the following vote:

IN FAVOR:	County Judge Clay Jenkins, Commissioner Dr. Theresa Daniel, Commissioner JJ Koch, Commissioner John Wiley Price, and Commissioner Dr. Elba Garcia
OPPOSED:	None
ABSTAINED:	None
ABSENT:	None

Recommended by: Philip Huang, MD, MPH
Originating Department: Health and Human Services

Dallas County

BRIEFING / COURT ORDER

Commissioners Court - Jun 16 2020

☐ Resolution
☐ Solicitation/Contract
☐ Executive Session
☐ Addendum

Memorandum of Understanding between Dallas County Health and Human Services (DCHHS) and Metro Dallas Homeless Alliance (MDHA) - Mainstream Voucher Program

Briefing Date:	Jun 16 2020
Funding Source:	N/A
Originating Department:	Health and Human Services
Prepared by:	Erika Ramirez,
Recommended by:	Philip Huang, MD, MPH, HHS Director

BACKGROUND INFORMATION:

The Dallas County Commissioners Court approved the award of sixty (60) mainstream vouchers by the U.S Department of Housing and Urban Development on January 21, 2020. Metro Dallas Homeless Alliance (MDHA) and Dallas County on behalf of Dallas County Health and Human Services (DCHHS) seek to enter a Memorandum of understanding (MOU) to establish and maintain collaboration in the provision of services in an effort to expand the housing program to assist non-elderly persons (under the age of 62) with disabilities. The MOU will enable the DCHHS' Mainstream Vouchers to be utilized to provide rental subsidy for current enrollees in Permanent Supportive Housing (PSH) programs identified and referred by MDHA through this collaboration. This Agreement is established in order to facilitate referrals of MDHA clients to utilize Dallas County Housing Agency's mainstream vouchers.

OPERATIONAL IMPACT:

MDHA in conjunction with Continuum of Care (CoC) agency providers will identify current individuals who qualify for the Mainstream Vouchers. Priority will be given to residents of (PSH) programs who may be ready to "Move On" to independent living in the community. CoC agency providers will make a referral to the Continuum of Care (CoC) Coordinated Access System (CAS) staff who will prioritize the applicants to use the Mainstream Vouchers.

The Dallas County Housing Agency will accept the referrals, verify income and criminal eligibility requirements, inspect the housing unit to ensure HQS requirements are met, brief applicants on program rules and landlord responsibilities, recertify participants annually, maintain communication with Metro Dallas Homeless Alliance (MDHA) as it relates to participant issues, moves, potential termination and perform all required functions in the proper administration of the Mainstream Voucher Program (MVP).

FINANCIAL IMPACT:

There is no financial impact to Dallas County.

LEGAL IMPACT:

The Commissioners Court must approve the Addendum to the MOU between Dallas County and MDHA, and authorize the County Judge to sign the Agreement on behalf of Dallas County.

PROJECT SCHEDULE:

The initial term of this Agreement shall be for four (4) years, commencing on the date on which the last of the two Parties signs this Agreement and contingent upon the annual renewal allocation of funds by HUD.

SBE PARTICIPATION:

N/A

ADMINISTRATIVE PLAN COMPLIANCE:

The DCHHS Housing Choice Voucher Program is in compliance with Vision 2: Dallas County is Healthy Community; Strategy 2.1. Provide exceptional disease prevention, health promotion and Human Service programs to the citizens of Dallas County, as included in the Dallas County Administrative Plan.

RECOMMENDATION:

It is recommended that Dallas County Commissioners Court does hereby approve the MOU between DCHHS and MDHA and authorize the County Judge to sign the agreement for this purpose.

MOTION:

On a motion made by TBD, and seconded by TBD, the following order will be voted on by the Commissioners Court of Dallas County, State of Texas:

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve the MOU between DCHHS and MDHA and authorize the County Judge to sign the agreement for this purpose.

ATTACHMENTS:

MDHA HHS Voucher Program MOU Final

MEMORANDUM OF UNDERSTANDING
between
METRO DALLAS HOMELESS ALLIANCE (MDHA)
and
DALLAS COUNTY

This Memorandum of Understanding ("Agreement") is made and entered into as of the date fully executed by and between METRO DALLAS HOMELESS ALLIANCE ("MDHA") located at 2816 Swiss Avenue, Dallas, TX 75204, and DALLAS COUNTY, TEXAS a political subdivision of the State of Texas on behalf of the DALLAS COUNTY HEALTH AND HUMAN SERVICES DEPARTMENT, located at 2377 Stemmons Freeway, Suite 200 LB-16, Dallas, TX 75207-2710 ("County"). The County and/or MDHA may hereinafter be referred to individually as a "Party," or collectively, as the "Parties."

WHEREAS, in late 2019, the U. S. Department of Housing and Urban Development ("HUD") notified County of a funding award to support sixty (60) Mainstream Vouchers to be administered under the Dallas County Health and Human Services department ("DCHHS") Housing Choice Voucher Program ("Funds").

WHEREAS, MVPs enable families comprised of one or more disabled persons to lease the affordable private housing of their choice. MVPs also assist persons with disabilities who often face difficulties in locating suitable and accessible housing on the private market.

WHEREAS, County intends to use the Funds is an effort to expand the Housing Choice Voucher Program and to continue to assist non-elderly persons (under the age of 62) with disabilities.

WHEREAS, MDHA manages a coordinated entry system which allows for coordination amongst homeless service providers.

WHEREAS, in response to the need for more affordable housing in the TX-600 Continuum of Care ("CoC"), Metro Dallas Homeless Alliance (MDHA) is working with Public Housing Authorities to apply for and utilize more Mainstream Vouchers. MDHA and its CoC agency providers seek to collaborate with the Public Housing Authorities to ensure success for this project.

NOW, THEREFORE, in consideration of the premises stated above and of the mutual covenants, agreements, and promises hereafter set forth and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the County and MDHA agree as follows:

Section 1: Purpose

The purpose of this Agreement is to develop a mutual understanding and collaboration between MDHA and County, specifically the Dallas County Housing Agency administered by DCHHS and to ensure the agreement of both Parties in response to the need for more affordable housing in the TX-600 CoC. This Agreement is established in order to facilitate referrals of MDHA clients to utilize Dallas County Housing Agency's Mainstream Vouchers.

Statement of Need: At this time, it is estimated that as many as 750 individuals will qualify as eligible to use the Mainstream Vouchers.

Target Population: Any clients who qualify for the Mainstream Vouchers, with a priority given to clients who can Move On from a Permanent Supportive Housing project.

Section 2: County's Obligations

A. Apply for Mainstream Vouchers.
B. Allow some of the Mainstream Vouchers to be used for a Move On Project implemented by MDHA.
C. Accept referrals from MDHA and its partner organizations for the vouchers.
D. Verify household income, assets, and expenses for initial occupancy for the mainstream voucher units.
E. Ensure applicant households meet the criminal eligibility requirements by running criminal screenings
F. Inspect units at initial Lease-up and annually to assure units meet Housing Quality Standards (HQS)
G. Brief applicants on program rules and tenant/Landlord responsibilities.
H. Recertify participants annually (income verification and criminal screenings).
I. Maintain communication with MDHA as it relates to participant issues, moves, potential termination, etc.
J. Withhold overpayment if DCHA determines that the owner is not entitled to the housing assistance payments.
    1) Withholding for Tax Delinquency: Payments delinquent for property taxes will be withheld to satisfy the debt to the County.
    2) Dallas County Housing Agency may enforce Mandatory Denial if:
        i. Any household member has ever been convicted of manufacture or production of methamphetamines on the premises of federally assisted housing [24 CFR 982.553 (1) (c)] and
        ii. Any household member who is subjected to a lifetime registration requirement under a State Sex Offender Registration Program; [24 CFR 982.553 (2)]

Section 3: MDHA's Obligations

MDHA agrees to the following for any referrals made by MDHA:

A. Pre-screen applicants for any barriers that may bar them from certain housing resources. (Ex. felony convictions, sex offender status, credit scores, or eviction history)
B. Determine whether applicants meet the following minimum criteria to qualify for Mainstream Vouchers:
    1) is a person 18 years of age or older and less than 62 years of age,
    2) has a disability, as defined in 42 U.S.C. 423;

3) is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
   i. is expected to be of long-continued and indefinite duration; substantial impedes his or her ability to live independently, and
   ii. is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or has a developmental disability as defined in 42 U.S.C. 6001.

Section 4: Both parties will

A. Ensure non-duplicative services are provided to shared clients.
B. Engage in active, ongoing communication regarding referrals, client follow-up, clients who may become lost to care.
C. Ensure that all privacy and confidentiality policies are adhered to and clients have completed necessary documentation for sharing pertinent information that would impact access, care, and treatment efforts.
D. Communicate openly with one another to resolve any concerns or barriers that may emerge between the two Parties or with any of the clients who are served through this agreement.

Section 5: Confidentiality of Client Information

A. Both parties fully understand and agree to maintain the strict confidentiality of all client referrals and information provided by those clients in terms of their personal information. Client information will be shared with the other party on a need to know basis in an effort to secure needed resources on behalf of the affected individual. If sharing of information is necessary, the client must first sign an *Authorization for Release of Information* form to provide consent for the sharing of information.

B. Open Records or Public Information Act. The parties acknowledge and agree that County is subject, as a matter of law, to Texas Government Code, Chapter 552, also known as the "Texas Open Records Act" or the "Texas Public Information Act" ("Public Information Act"). Notwithstanding any other provision, including exemptions or exceptions to the Public Information Act, the parties agree that in the event that any provision of this Agreement, or other documents related to this Agreement, including, but not limited to, any exhibit, attachment, amendment, addendum, or other incorporated document, is in conflict with the Public Information Act, such provision shall be of no force or effect. Furthermore, it is expressly acknowledged and agreed that the County, County Commissioners Court, County Judge, Elected County Officials, County Department Heads and County Employees (hereinafter "County Requestors") may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any software, hardware, firmware, or any part thereof, or other equipment or item, data or information furnished to or in the possession or knowledge of County. It is further acknowledged and agreed that the County Requestors have the right and obligation by law to rely on the advice, decisions, and opinions of the Texas

Attorney General. The County will give notification to MDHA as required by Section 552.305(d) of the Texas Government Code. MDHA hereby releases the County Requestors from any and all liability or obligation of any type, kind or nature regarding any disclosure of any software, hardware, firmware, or any part thereof, or other equipment or item, data or information furnished by MDHA or in the possession or knowledge of the County that is determined by County or in reliance on any advice, decision or opinion of the Texas Attorney General to be available to the public or any persons.

Section 6: Cost

A. Each Party is responsible for its respective share of the costs associated with its performance of this Agreement. MDHA shall have no right of action against County in the event County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years.

Section 7: Indemnification

A. **MDHA , INCLUDING ITS ASSIGNS, SUBCONTRACTORS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND REPRESENTATIVES (COLLECTIVELY, "MDHA") HEREBY FOREVER WAIVES AND RELEASES THE COUNTY, ITS COMMISSIONERS, COUNTY JUDGE, ELECTED OFFICIALS AND ITS OFFICERS, AGENTS, EMPLOYEES, AND REPRESENTATIVES (REFERRED TO COLLECTIVELY AS "COUNTY") FROM ANY AND ALL CLAIMS FOR DAMAGES, KNOWN OR UNKNOWN, WHICH MAY ARISE AS A RESULT, DIRECTLY OR INDIRECTLY, OF MDHA'S INVOLVEMENT IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING: ANY PREMISES OR SPECIAL DEFECTS KNOWN OR UNKNOWN TO THE COUNTY; ANY INJURY TO A PERSON AND/OR STAFF OF THE COUNTY; AND ANY INJURY TO OTHER INDIVIDUALS RELATING TO MDHA'S INVOLVEMENT UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING WILLFUL ACTS.**

B. **AND FURTHER, TO THE FULLEST EXTENT ALLOWED BY LAW, MDHA AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY AGAINST ALL CLAIMS, DEMANDS, ACTIONS, AND/OR SUITS BROUGHT BY OR ON BEHALF OF THIRD PARTIES AGAINST THE COUNTY, AND ALL RESULTING LOSSES, DAMAGES, LIABILITIES, COSTS, AND/OR EXPENSES OF EVERY KIND AND NATURE (INCLUDING, BUT NOT LIMITED TO COURT COSTS, LITIGATION EXPENSES, AND ATTORNEYS' FEES) INCURRED BY OR SOUGHT TO BE IMPOSED ON THE COUNTY (COLLECTIVELY "CLAIMS") BECAUSE OF INJURY (INCLUDING DEATH) BY ANY MANNER OR METHOD**

Section 9: Miscellaneous

A. ENTIRE AGREEMENT. This Agreement supersedes all prior agreements, written or oral, between MDHA and County and will constitute the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement. This Agreement and each of its provisions will be binding upon the Parties and may not be waived, modified, amended, or altered except by a writing signed by both MDHA and County with formal approval by the Dallas County Commissioners Court.

B. GOVERNING LAW/VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. This Agreement is performable and enforceable in any court of competent jurisdiction in Dallas County, Texas.

C. NOTICES. All notices under this Agreement shall be in writing and shall be sent via first-class mail, postage prepaid, to the addresses below. Either party may update its address by providing written notice to the other party pursuant to the terms of this provision.

TO MDHA:
MDHA
2816 Swiss Ave, Dallas, TX 75207
Phone: (972) 358-0101
Attn: Carl Falconer, President and CEO

TO COUNTY:
Dallas County
2377 Stemmons Freeway, Suite 200 LB-16
Dallas, TX 75207
Attn: Philip Huang, MD, MPH, Director

D. SOVEREIGN IMMUNITY. This Agreement is expressly made subject to County's Sovereign Immunity, Title 5 of the Texas Civil Practices and Remedies Code, and all applicable federal and state law. The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability that County has by operation of law. Nothing in this Agreement is intended to benefit any third party beneficiary.

E. RELATIONSHIP OF PARTIES. County and MDHA agree that the terms and conditions of this Contract do not constitute the creation of a separate legal entity or the creation of legal responsibilities of either party other than under the terms of this Contract. County and MDHA are and shall be acting as independent contractors under this Contract; accordingly, nothing contained in this Contract shall be construed as establishing a master/servant, employer/employee, partnership, joint venture, or joint enterprise relationship between County and MDHA .

F. AMENDMENTS. No modification, amendment, novation, renewal, or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the parties hereto. Any alteration, addition, or deletion to the terms of this Agreement which are required by changes in federal or State law are automatically incorporated herein without written amendment to this Agreement and shall be effective on the date designated by said law.

G. ASSIGNMENT. Parties shall not transfer or assign their interest in, or any activity under, this Agreement without the prior written consent of the other Party.

H. NON-EXCLUSIVITY. This Agreement is non-exclusive and shall not in any way preclude County from entering into similar agreements or arrangements with other vendors, contractors, or from acquiring similar, equal, or like goods or services from other entities or sources.

I. FISCAL FUNDING CLAUSE. Notwithstanding any provisions contained in this Agreement, the obligations of the County under this Agreement are expressly contingent upon the availability of funding for each item and obligation for the Term of the Agreement and any pertinent extensions. MDHA shall have no right of action against County in the event County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years. In the event that County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, County, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to MDHA at the earliest possible time.

J. AUTHORITY AND BINDING EFFECT. Each Party herby represents and warrants that the person signing this Agreement on its behalf as the authority to bind such Party. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit and be binding upon the successors and assigns of the parties hereto, as well as the parties themselves; except that MDHA , its successors and assigns shall not be obligated to perform beyond the Term of this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the dates written below intending to be bound thereby.

METRO DALLAS HOMELESS ALLIANCE

By: _____
Carl W. Falconer
Chief Executive Officer

Date: 1 JUN 2020

DALLAS COUNTY

By: _____
Clay Lewis Jenkins
County Judge

Date: _____

RECOMMENDED

By: _____
Philip Huang, MD, MPH, Director
Dallas County Health & Human Services

Approved as to Form*:

John Creuzot
District Attorney

Digitally signed by /s/ Lacey Lucas
#385
Date: 2020.06.01 12:01:51 -05'00'

By: _____
Lacey B. Lucas
Assistant District Attorney, Civil Division

*By law, the District Attorney's Office may only advise or approve contracts or agreements or legal documents on behalf of its clients. It may not advise or approve a contract or agreement or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

Exhibit AA. PIH NOTICE H 2023-10

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Housing
Office of Public and Indian Housing

Special Attention of:

Multifamily Asset Management Division Directors
Multifamily Contract Administrators
Multifamily Project Owners
Multifamily Regional Center Directors
Public Housing Agencies
Public Housing Hub Office Directors
Public Housing Program Center Directors
Regional Directors
Field Office Directors
Resident Management Corporations
Notice PIH 2023–27

Issued: February 2, 2024

Notice H 2023–10
Originally issued September 29, 2023

Expires: This Notice remains in effect until amended, superseded, or rescinded.

Cross References:

Regulations: 24 CFR Parts 5, 882, 891, 960, 966, 982

Office of Housing Notices: H 2020–06; H 2019–06; H 2016–01; H 2015–12

Office of Public and Indian Housing Notices: PIH 2019–09; PIH 2017–05 (HA); PIH 2016–05; PIH 2015–21; PIH 2013–04 (HA); PIH 2012–29; PIH 2012–03; PIH 2012–1 (HA)

Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

1. PURPOSE

The purpose of this notice is to provide guidance to Public Housing Agencies (PHAs) and Multifamily Housing (MFH) Owners on the implementation of the many program changes brought about by the Housing Opportunity Through Modernization Act of 2016 (HOTMA) sections 102 and 104 and detailed in the final rule published in *Federal Register* Notice 88 FR 9600 on February 14, 2023. Although the final rule addresses sections 102, 103, and 104, this notice addresses guidance for sections 102 and 104 only.[1]

Through this notice, HUD is also modernizing its documentation requirements to reduce the burden on families accessing housing assistance in support of Office of Management

[1] The Office of Public and Indian Housing (PIH) published a separate notice on section 103 of HOTMA. See *Supplemental Guidance for Implementation of Section 103; Limitation on Public Housing Tenancy for Over-Income Families under the Housing Opportunity Through Modernization Act of 2016 (HOTMA)* (Notice PIH 2023–03 (HA)).

and Budget (OMB) Memo M-22-10, *Improving Access to Public Benefits Programs Through the Paperwork Reduction Act*.

2. BACKGROUND

HOTMA was signed into law on July 29, 2016 (Public Law 114–201, 130 Stat. 782). The HOTMA statute consists of 14 sections of law that affect the Public Housing and Section 8 rental assistance programs. On September 17, 2019, HUD issued a proposed rule to update its regulations according to HOTMA's statutory mandate. The proposed rule may be found at 84 FR 48820 (September 17, 2019).

Sections 102 and 104 of HOTMA make sweeping changes to the United States Housing Act of 1937 (1937 Act), particularly those affecting income calculations and reviews. **Section 102** changes requirements related to income reviews for Public Housing and Section 8 programs. **Section 104** sets maximum asset limits for Public Housing and Section 8 applicants and participants.

Section 102 of HOTMA applies to all PHAs operating a Housing Choice Voucher (HCV) (including Project-Based Vouchers), Public Housing; Section 8 Moderate Rehabilitation, or Section 8 Moderate Rehabilitation Single Room Occupancy (SRO), including Moving to Work (MTW) Agencies (see Section 4 (Notice Applicability) of this notice). Section 102 also applies to the following programs administered by MFH: Section 8 ProjectBased Rental Assistance (PBRA), 202/8, 202/162 Project Assistance Contract (202/162 PAC), Section 202/811 Capital Advance with Project Rental Assistance Contract (202/811 PRAC), non-insured 236 projects with Interest Reduction Payments (236 IRP), Section 811 Project Rental Assistance Demonstration (811 PRA), and Senior Preservation Rental Assistance Contracts (SPRAC).[2] Section 102 is effective on January 1, 2024.

Section 104 of HOTMA applies to all PHAs operating an HCV, Public Housing, Section 8 Moderate Rehabilitation, or Section 8 Moderate Rehabilitation SRO program, including MTW Agencies (see Section 4 (Notice Applicability) of this notice). Section 104 also applies to the following programs: Section 8 PBRA and 202/8. Section 104 does not apply to following programs: 202/811 PRAC, 236 IRP, 811 PRA, 202/162 PAC, and SPRAC. Section 104 is effective on January 1, 2024.

HUD, through rulemaking,[3] implemented sections 102 and 104 through several changes to the following Public Housing and Section 8 regulations:

- 24 CFR Part 5: General HUD Program Requirements; Waivers

[2] HUD administratively extended the applicability of Section 102 of HOTMA to the following programs: 202/162, 202/811 PRAC, 811 PRA, and SPRAC.

[3] *Federal Register*: Housing Opportunity Through Modernization Act of 2016: Implementation of Sections 102, 103, and 104.

- 24 CFR Part 882: Section 8 Moderate Rehabilitation Programs
- 24 CFR Part 960: Admission to, and Occupancy of, Public Housing
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

HUD also made conforming changes to its regulations found in 24 CFR Part 891, which govern the Section 202 and 811 Capital Advance programs and the Section 202 Direct Loan program (202/8). These programs are affected by various changes to the income regulatory provisions in 24 CFR Part 5. HUD, in error, did not make conforming changes to certain Section 202 Direct Loan regulations, consistent with the HOTMA final rule, in 24 CFR Part 891, Subpart E, including 891.655, 891.740, and 891.750, which govern 202/162 PAC projects. HUD published conforming changes to the Section 202/162 PAC program regulations as a technical correction that will become effective on January 1, 2024.[4] The revised Section 202 Direct Loan regulatory references in this notice will become effective with the effective date of the forthcoming technical correction.

Note: The final rule does not otherwise revise or modify any other federal laws or regulations. PHAs/MFH Owners must continue to follow all laws and regulations as codified in statute and in the Code of Federal Regulations.

2.1 Technical Corrections and Clarifications

HUD has updated Attachment A to address the asset limitation found in Section 104 of HOTMA and replaced the previous Attachment A that included placeholder language. In addition, HUD has made several technical corrections and added clarifying language throughout the notice, based on feedback from stakeholders and further analysis of the HOTMA Income and Assets Final Rule and related laws and regulations. These changes from the previous version of the notice published on September 29, 2023, are listed here as follows:

- Throughout the notice, HUD has added both the references to the 202/162 PAC program and the program's regulations as the conforming changes to the program were issued through the following *Federal Register* notice: https://www.federalregister.gov/documents/2023/11/02/2023-24236/section-202direct-loan-technical-amendments.
- In Section 6.1, HUD removed a sentence that incorrectly stated that PHAs must pick a compliance date that falls before the deadline for their PHA Plan submission. HUD also added MTW Plans to the list of documents requiring updates due to HOTMA.
- In Attachment B, subtopic B.2, HUD added clarifying language on the three-step process for calculating income, specifically for Step 2, adding that the PHA/MFH Owner may use the verification obtained during an interim reexamination for an

[4] Federal Register :: Public Inspection: Direct Loan Technical Amendments.

annual reexamination if there have been no other changes to annual income since the interim reexamination. In Step 3, HUD replaced the word "paycheck" with "pay stub." In the example B1, HUD changed the SSA COLA amount to the actual 2024 COLA amount of 3.2 percent. In the example B3, HUD changed "four current and consecutive paystubs" to "two current and consecutive paystubs." In example B4, HUD changed the COLA amount to 3.2 percent and adjusted the calculations.

- In Attachment C, subtopic C.2, HUD clarified that while the elderly/disabled family deduction is effective on January 1, 2024, PHAs/MFH Owners will apply the new deduction amount to a family's next annual or interim reexamination, whichever is

---

sooner, following the date on which the PHA/MFH Owner implements the new elderly/disabled family deduction.

- In Attachment C, subtopic C.4.a, HUD clarified that the phased-in relief for the health and medical care expenses deduction will not start until after the PHA/MFH Owner implements the phased-in relief. Likewise, in the Phased-in Relief Timing Table (Table C1), HUD replaced the date of January 1, 2024, with the date on which the PHA/MFH Owner implements the phased-in relief.
- In Attachment C, subtopic C.5, HUD edited the phrase "age 12 and younger" to "under 13 years of age," to align with HUD's definition of "child-care expenses" in 24 CFR 5.603. HUD also clarified in this subsection that the amount of child-care expenses (not the expenses incurred to enable a family member to work) deducted from annual income must not exceed the amount of employment income that is included in annual income.
- In Attachment C, subtopic C.6.b, HUD edited the date by which PHAs/MFH Owners are encouraged to communicate the new hardship exemptions to applicants and families, replacing January 1, 2024, with the date on which the PHA/MFH Owner begins to comply with HOTMA.
- In Attachment C, subtopic C.7, HUD added another example of a permissive deduction that PHAs may choose to establish, which is the amount paid from a family's annual income, and not another source such as Medicaid or a child welfare agency, for unreimbursed health or medical expenses of a foster child or a foster adult. In Attachment E, subtopic E.2, HUD clarified that PHAs may establish a permissive deduction to allow the unreimbursed health and medical expenses paid by the family on behalf of foster children and adults to be deducted from annual income.
- In Attachment F, subtopic F.1, HUD added clarifying language to address how PHAs/MFH owners must consider garnished, levied, or withheld wages or benefits.
- In Attachment F, subtopic F.4.e, HUD updated the method for subtracting federal tax refunds and refundable tax credits from assets to accurately reflect the statutory and regulatory requirements of HOTMA. Previously, the notice stated that the tax refund was to be subtracted from the asset account into which the tax refund amount was deposited. To align with HOTMA, the tax refund must instead be subtracted from the

total value of net family assets. HUD deleted the reference to a tax refund or refundable tax credit that is deposited into an excluded asset, as this is incorrect. The tax refund/credit amount must be subtracted from total net family assets, regardless of where the amount is deposited. In example F2, HUD clarified that the Rodriguez family owns a total of $10,000 of net family assets.

- In Attachment F, subtopic F.5, with regard to the start date for using the HUDpublished passbook rate, HUD updated the date of January 1, 2024, with the date on which the PHA/MFH Owner implements the new passbook rate, and added clarifying language on PHA flexibility around passbook rates up until they implement the new passbook rate.
- In Attachment F, subtopic F.6.b, HUD added clarifying language on how PHAs/MFH Owners are to impute asset income using the HUD-published passbook rate.
- In Attachment G, subtopic G.1.f, HUD clarified that non-recurring, non-monetary inkind donations from friends and family may be excluded as non-recurring income.
- In Attachment G, subtopic G.6, HUD clarified that workers' compensation payments, regardless of the length or frequency of the payments, are always excluded from annual income. HUD updated example G6 to reflect this clarification.
- In Attachment G, subtopic G.16.d, HUD corrected the example reference to example G13, and reversed the wording on the process for calculating the excess amount of student financial assistance to include in annual income. The previous one-step process, as described, was incorrect. This error was also corrected in Chart G2.
- In Attachment I, subtopic I.2, HUD clarified in the PHA/MFH Owner discretion section that PHAs/MFH Owners have discretion on whether to process earned income increases only if there has been a previous interim decrease since the last annual reexamination.
- In Attachment J, subtopic J.1, HUD added a clarifying footnote (J1) to reduce confusion about the Form HUD–9886/HUD–9887 requirements for family members who become a head of household, co-head, or spouse.
- In Attachment J, Table J1, HUD added instructions on the use of EIV for new admissions in the row on Income Information for PIH Programs and Income Report for MFH Programs. HUD also added a footnote reminding PHAs/MFH Owners that they must rely on other documents to verify families' reported income before admission.
- In Attachment J, Table J2, Level 6, HUD clarified that PHAs/MFH Owners must pull the EIV Income Report for each family at every Annual Reexamination, unless using Safe Harbor documentation to verify the family's income. HUD also added to the Level 1 row that self-certification may be used as the highest form of verification when the family reports zero income.
- In Attachment J, subtopic J.5.a, HUD clarified that PHAs/MFH Owners are required to obtain a minimum of two current and consecutive pay stubs for determining

projected annual income from wages when they are relying on pay stubs for Level 4 documentation.

- HUD renamed subtopic J.8 in Attachment J to "Zero Income Procedures" and updated this section to include guidance to PHAs/MFH Owners on accepting families' self-certifications of zero income at admission and reexamination without taking further steps to verify the zero reported income.
- HUD added the Appendix: Sample Net Family Assets Self-Certification Form.

3. Burden Reduction and Program Alignment

OMB Memo M-22-10, *Improving Access to Public Benefits Programs Through the Paperwork Reduction Act*, challenges federal agencies to review documentation requirements for those accessing public benefits programs like HUD's rental assistance programs. Through the process of implementing HOTMA, HUD has reviewed its verification and documentation requirements for admission and continued occupancy, including the use of HUD's Enterprise Income Verification (EIV) system in the Public Housing, Housing Choice Voucher, and the Multifamily Housing programs listed above. These programs share regulatory language around the requirement to obtain third-party verification of family annual income, the value of assets, expenses related to deductions from annual income and other factors that affect the determination of adjusted income (§§ 5.659(d), 960.259(c), 982.516(a)(2)).

Through this notice, HUD is aligning the timeframes within which documentation must be dated and the breadth of documentation required to verify tenant bank accounts and employment income across PIH and MFH programs. Consistency among HUD's programs will reduce burden among tenants who move from one program to another and among entities that administer multiple HUD programs.

4. Notice Applicability

HOTMA updates and creates new rules for programs administered by the Office of Public and Indian Housing (PIH) (HCV [including Project-Based Vouchers], Moderate Rehabilitation, Moderate Rehabilitation SRO, Public Housing), and programs administered by the Office of Multifamily Housing (MFH) (Section 8 PBRA, 202/8, 202/162 PAC, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC). HUD's revisions to the Part 5 income regulations also affect certain programs administered by the Office of Community Planning and Development (CPD).[5] HUD reminds PHAs/MFH Owners that they are required to meet all program requirements on rental units assisted and/or developed by multiple HUD programs.

This notice applies only to the following programs:

- Housing Choice Voucher (HCV);
- Public Housing;
- Section 8 Moderate Rehabilitation (Mod Rehab);

[5] CPD will issue separate guidance on how HOTMA impacts its programs.

- Section 8 Moderate Rehabilitation Single Room Occupancy (SRO);
- Section 8 Project-Based Rental Assistance (PBRA);
- Section 202/8 (202/8);
- Section 202/162 Project Assistance Contract (202/162 PAC);
- Section 202/811 Capital Advance with Project Rental Assistance Contracts (202/811 PRAC);
- Non-insured 236 projects with Interest Reduction Payments (236 IRP);
- Section 811 Project Rental Assistance (811 PRA); and

- Senior Preservation Rental Assistance Contracts (SPRAC).

The contents of this notice apply to PHAs participating in the MTW program except where an approved MTW waiver is in place. For example, MTW PHAs that have previously developed a different method of measuring prior-year income as part of the Rent Reform Demonstration or Stepped and Tiered Rent Demonstration may continue to use those methods after this notice takes effect. References to form HUD–50058 in this notice take on the meaning of form HUD–50058 MTW for MTW PHAs and form HUD–50058 MTW Expansion for MTW Expansion PHAs.

5. Structure of this Publication

This notice is organized by distinct topic areas to assist PHAs/MFH Owners in identifying programmatic changes that affect their operations. Each topic area is presented as an attachment to the notice. Each attachment follows a uniform structure:

- Regulation(s)
- Affected Program(s)
- Summary of Change(s)
- Subtopics

Within each topic area, and in some cases within subtopic areas, the notice indicates whether PHAs/MFH Owners have discretion in establishing policies within their individual programs.

6. Effective Date, Compliance, and Updates to PHA/MFH Owner Policies

The final rule's effective date is January 1, 2024. HUD recognizes, however, that HOTMA includes significant program and systems changes and that PHAs/MFH Owners and families need time to understand the changes and implement them. HUD understands that the system development timeframes for the Housing Information Portal (HIP) and Tenant Rental Assistance Certification System (TRACS) make full implementation and compliance with the final rule by the January 1, 2024, deadline unlikely. Additionally, because these HOTMA changes apply to all current participants and new admissions, implementation of the HOTMA final rule cannot be achieved immediately on a universal basis but rather is an ongoing process that will happen over the course of a year as routine

program activities occur. Subparagraphs 6.1 and 6.2 describe HUD's implementation requirements by program office.

6.1 Compliance Date and Required Actions for PHAs (Office of Public and Indian Housing)

To comply with HOTMA, PHAs must be able to submit transactions to the Housing Information Portal (HIP). This requires the PHA's software vendor to make system updates and fully convert to making all submissions to HIP. Each PHA will set its own compliance date as early as January 1, 2024, but no later than January 1, 2025. "Compliance" means, in this instance, utilizing the HOTMA rules as it applies to the affected programs and corresponding reporting in HIP. The Real Estate Assessment Center (REAC) will issue a separate HIP transition notice later this year.

Requirements for Updating PHA Annual Plans or Annual MTW Plans:

- The deadline to submit the updated PHA Annual Plan or Annual MTW Plan to HUD will depend on the PHA's fiscal year start date. However, the PHA's chosen compliance date should also be considered.
- The regulations (24 CFR § 903.5(b)(3)) require that a PHA submit its PHA Annual Plan 75 days prior to the beginning of its fiscal year. To best utilize the required PHA Plan process for review and discussion of the ACOP and HCV Administrative Plan at the public hearing, PHAs must also submit their PHA Annual Plan to HUD at least 75 days before their compliance date or their Fiscal Year start date, whichever is sooner. See Table 1, below, to determine the due date of your PHA's Annual Plan or Annual MTW Plan based on your fiscal year start date and compliance date.
- PHAs must update their Public Housing Admissions and Continued Occupancy Policies (ACOP) and HCV Administrative Plans to reflect HOTMA rules and discretionary decisions, including the required public notification and review.
- The plans will indicate that policies are not effective until the PHA's compliance date.

Note: PHAs must continue to follow their existing ACOPs and Administrative Plans until the PHA's software is compliant with HIP.

What PHAs must do once their software is HOTMA compliant:

- Each PHA will establish a compliance date based on when the PHA's software is able to submit to HIP. All transactions **effective** on the PHA's compliance date or later will be processed using HOTMA policies. In setting a compliance date the PHA must consider when its software will be ready to submit to HIP and the time needed to ensure that all transactions effective on that day are processed using HOTMA rules. For example, a PHA with a May 1, 2024, compliance date will need to send Annual Reexamination packets reflecting the HOTMA changes in January 2024. The PHA must inform the family as to whether their income determination is being conducted under the pre-HOTMA regulations or in accordance with the HOTMA final rule.
- PHAs must implement their revised ACOP and Administrative Plans.

PHA Annual Plan Due Date Based on PHA's Fiscal Year Start Date and Compliance Date:

The 4 columns on the right represent Fiscal Year Start Dates and the rows represent possible Compliance Dates. When a PHA determines its Compliance Date, it can use this table to determine the Annual Plan due date by locating the appropriate Compliance Date row and then finding the column with its Fiscal Year Start Date.

Table 1: Recommended Annual Plan Due Date

Compliance Date	FY Start: July 1, 2024	FY Start: October 1, 2024	FY Start: January 1, 2025	FY Start: April 1, 2025
January 1, 2024	October 18, 2023	October 18, 2023	Oct 18, 2024	October 18, 2023
February 1, 2024	November 18, 2023	November 18, 2023	November 18, 2023	November 18, 2023
March 1, 2024	December 17, 2023	December 17, 2023	December 17, 2023	December 17, 2023
April 1, 2024	January 16, 2024	January 16, 2024	January 16, 2024	January 16, 2024
May 1, 2024	February 16, 2024	February 16, 2024	February 16, 2024	February 16, 2024
June 1, 2024	March 18, 2024	March 18, 2024	March 18, 2024	March 18, 2024
July 1, 2024	April 17, 2024	April 17, 2024	April 17, 2024	April 17, 2024
August 1, 2024	April 17, 2024	May 18, 2024	May 18, 2024	May 18, 2024
September 1, 2024	April 17, 2024	June 18, 2024	June 18, 2024	June 18, 2024
October 1, 2024	April 17, 2024	July 18, 2024	July 18, 2024	July 18, 2024
November 1, 2024	April 17, 2024	July 18, 2024	August 18, 2024	August 18, 2024
December 1, 2024	April 17, 2024	July 18, 2024	September 17, 2024	September 17, 2024
January 1, 2025	April 17, 2024	July 18, 2024	October 18, 2024	October 18, 2024

Latest Submission Deadline	April 17, 2024	July 18, 2024	October 18, 2024	October 18, 2024

By January 1, 2025:

Full compliance with the HOTMA final rule is mandatory effective January 1, 2025.

Compliance Example:

In March 2024, the PHA's software vendor says they will be ready to submit to HIP in June 2024. The PHA sets their compliance date as August 1, 2024, to allow for enough time to send out recert packets that reflect HOTMA changes in April 2024 for families with an August 1, 2024, annual reexamination effective date. The PHA's fiscal year start date is October 1, 2024. Based on the compliance date table above, the PHA determines that they must submit their updated Annual Plan to HUD by May 18, 2024. The PHA posts on their Web site that they will be applying the new HOTMA changes to all transactions effective August 1, 2024. They also send notifications to participants, so they understand the new rules for reporting interim changes.

6.2 Compliance Date and Required Actions for MFH Owners (Office of Multifamily Housing)

By March 31, 2024:

- By March 31, 2024, MFH Owners must update their Tenant Selection Plans and EIV policies and procedures to reflect HOTMA rules and discretionary policies.
- MFH Owners must make the revised Tenant Selection Plan publicly available.

Note: MFH Owners must continue to follow their existing Tenant Selection Plans and EIV policies & procedures until the MFH Owner's software is compliant with TRACS 203A.

What MFH Owners must do once their software is HOTMA compliant:

Once a MFH Owner's software is HOTMA compliant (i.e., TRACS 203A system requirements have been fully implemented), the following things must happen:

- MFH Owners must provide tenants at least 60 days' notice that their lease will be modified at the end of the lease term after the expiration of the 60 days' notice. Once proper notice is given, MFH Owners must begin using the revised Model Leases at the expiration of a family's lease term.
- MFH Owners must implement their revised Tenant Selection Plans and EIV policies and procedures.
- All tenant data submissions must comply with the HOTMA regulations. Prior to their first reexaminations under HOTMA, MFH Owners must inform families that their income determinations will be conducted in accordance with the HOTMA final rule. As a best practice, HUD recommends that MFH Owners describe to families how their income determinations will change with the implementation of the final rule.

- MFH Owners must use the revised Tenant Consent form (form HUD–9887/9887A) and Fact Sheets ("How Your Rent is Determined").

How HUD will monitor MFH Owner compliance prior to January 1, 2025:

Prior to January 1, 2025, MFH Owners will not be penalized for HOTMA-related tenant file errors during Management and Occupancy Reviews (MORs). Instead, the Contract Administrator will issue observations with corrective actions.

By January 1, 2025:

Full compliance with the HOTMA final rule is mandatory effective January 1, 2025.

How HUD will monitor owner compliance on or after January 1, 2025:

- Contractor Administrators will issue HOTMA-related findings during MORs.
- MFH Owners must correct all HOTMA-related observations that were issued by Contract Administrators during 2024.
- MFH Owners who fail to implement HOTMA may be found in default of their business agreements with HUD.

Questions about compliance should be directed to MFH_HOTMA@hud.gov.

MFH Model Leases

MFH is updating the five program Model Leases to conform to the requirements in the HOTMA final rule. MFH Owners must begin using the new HUD-approved leases once HOTMA is fully implemented at the property.

The following information outlines the process that MFH Owners must follow to renew families under the applicable revised Model Lease:

- **Any modification to the lease may be effective only at the end of a lease term for all MFH programs.** Lease terms are listed in paragraph 2 in form HUD–90105–A (Section 8 Model Lease); paragraphs 1 and 9 in form HUD–90105–B (202/8 Model Lease); paragraphs 1 and 8 in form HUD–90105–C (202 PRAC Model Lease); paragraphs 1 and 8 in form HUD–90105–D (811 PRAC Model Lease); and paragraphs 1 and 8 in form HUD–92236 (811 PRA Model Lease).
- MFH Owners must provide families with copies of the HUD-approved lease at least 60 days prior to the end of a family's lease term.
- MFH Owners must include a letter clearly stating that the family can either accept the modification or move, but that a response is due from the family within 30 days.
- Families must either accept the modification by signing both copies of the modification and returning one to the MFH Owner[6] or refuse the modification and give the owner a 30-day notice of intent to vacate.

[6] Electronic signature is acceptable pursuant to Notice H 2020–10, except where not permitted by state and/or local laws.

- If, within 30 days, the family indicates that the modification is unacceptable or does not respond, the MFH Owner may begin the procedures for terminating tenancy.

The lease modification notice must be served to families in the following manner[7]:

1) The MFH Owner must send a letter by first-class mail, properly stamped, and addressed and including a return address, to the family at the unit address; **and**
2) The MFH Owner must deliver a copy of the notice to any adult person answering the door at the unit. If no adult answers the door, the person serving the notice may place it under or through the door or affix it to the door.

The date on which the notice is deemed received by the family is the later of:

1) The date the first-class letter is mailed; or 2) The date the notice is properly given.

Service of the notice is deemed effective once the notice has been both mailed and handdelivered. **MFH Owners are not permitted to deliver lease modification notices to families electronically.**

Families who are under old leases after the MFH Owner becomes compliant with HOTMA must continue to report income and household composition changes between annual reexaminations in accordance with their existing leases until they sign a revised lease. MFH Owners will be required to determine whether changes reported by families under the old lease will require an interim reexamination consistent with HOTMA's requirements. Since the remaining provisions reflect changes to existing regulatory provisions during the period of an existing lease, all other HOTMA final rule provisions can be implemented without the family's execution of a revised lease.

No other modifications may be made to the Model Leases without HUD's approval. MFH Owners may incorporate existing HUD-approved lease addenda into the revised Model Leases if the addenda do not conflict with the requirements of the final rule.

7. Superseded and Rescinded Notices

7.1 Guidebooks and Handbooks

This notice supersedes relevant portions of HUD's guidance as provided in the HCV Guidebook, the Public Housing Occupancy Program Guidebook, and the HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs. HUD will update and replace all the sections and chapters listed below. Before consulting one of these resources, please ensure you are using a version dated after the publication date of this notice. Questions regarding

[7] 24 CFR § 247.4(b), as applicable to 24 §§ CFR 891.430(b), 891.630(b), and 891.770(b).

the relevancy of existing handbook/guidebook guidance should be directed to the HOTMA mailbox maintained by each program office.

HCV Guidebook chapters to be updated:

- Eligibility Determination and Denial of Assistance
- Reexaminations

Public Housing Occupancy Guidebook chapters to be updated:

- Eligibility Determination and Denial of Assistance
- Income Determination
- Reexaminations

HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs chapters to be updated:

- Chapter 3. Eligibility for Assistance and Occupancy
- Chapter 4. Waiting List and Tenant Selection
- Chapter 5. Determining Income and Calculating Rent
- Chapter 7. Recertification, Unit Transfers, and Gross Rent Changes
- Chapter 9: Enterprise Income Verification (EIV)
- Glossary

7.2 Housing and PIH Notices

This notice supersedes and replaces the guidance provided in the following program notices:

- Exclusion from Annual Income of Temporary Employment from the U.S. Census Bureau (H 2020–06)
- Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report (PIH 2018–24)
- Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System (PIH 2018–18)
- Income Exclusion Under Temporary Census Employment and Census Access (PIH 2017–05)
- Passbook Savings Rate Effective February 1, 2016 (H 2016–01)
- Amendment to the Definition of Tuition (PIH 2015–21/H 2015–12)
- Guidance on Verification of Excluded Income (PIH 2013–04 (HA))
- Establishing the Passbook Savings Rate (PIH 2012–29)
- Housing Choice Voucher – Homeownership Option 10 Year Asset Exclusion (PIH 2012–03)

- Income Exclusion of Kinship, Kin-GAP and Other Guardianship Care Payments (PIH 2012–01 (HA))

Streamlining Administrative Practices in the Housing Choice Voucher program (Notice PIH 2012–15) is still useful for PHAs who are streamlining their programs. Numerous provisions in that notice are no longer applicable or additional flexibilities have been offered through more recent PIH notices. As it relates to the HOTMA final rule, however, the notice includes numerous recommendations surrounding interim reexaminations and annual reexaminations that are no longer applicable. Therefore, HUD is rescinding PIH Notice 2012–15.

The following sections of Streamlining Program Regulations for Programs Administered by Public Housing Agencies (Notice PIH 2016–05) are rescinded:

C: "Exclusion of mandatory education fees from income"

E: "Earned income disregard"

F: "Family declaration of assets under $5,000"

N: "Family income and composition: regular and interim examinations" The following Housing notices are partially rescinded by this notice:

- *Streamlining Administrative Regulations for Multifamily Housing Programs* (H 2016–09)
- "24 CFR 5.216 – Verification of Social Security Numbers" (Section IV). This section of the notice states that an interim reexamination is required to add or update a household member's Social Security Number (SSN).
- "24 CFR 5.609 – Definition Change – Exclusion of mandatory education fees from income" (Section VI). This section of the notice references the outdated income exclusion in 24 CFR § 5.609(b)(9).
- *Section 811 Project Rental Assistance (PRA) Occupancy Interim Notice* (H 2013–24) ○ "Annual Recertification" (Section IV.F). This section of the notice states that MFH Owners must conduct interim reexaminations as described in HUD Handbook 4350.3 REV-1, Chapter 7.
- *Enterprise Income Verification (EIV) System* (H 2013–06) ○ "Using EIV Reports" (Section VII). This section of the notice states that MFH Owners are required to use EIV Income Reports as a thirdparty source to verify a tenant's employment and income information during interim reexaminations.
    - ○ "Use of EIV Reports" (Attachment 6). This attachment to the notice states that the use of EIV Reports (Income Report, Income Discrepancy Report, and Summary Report) is mandatory at interim reexaminations.

8. PAPERWORK REDUCTION ACT

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. The information collection requirements of this notice were assigned OMB Control Numbers 2577–0169, 2577–0295, 2577–0083, 2502–0204, 2577–0226, 2577–0282.

For questions regarding this notice please contact MFH_HOTMA@hud.gov for Multifamily Housing program questions or HOTMAQuestions@hud.gov for PIH program questions.

Julia Gordon

Julia R. Gordon
Assistant Secretary for Housing —
Federal Housing Commissioner

Richard J. Monocchio

Richard J. Monocchio
Principal Deputy Assistant
Secretary
for Public and Indian Housing

Exhibit BB. PIH NOTICE 2023-28

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

ASSISTANT SECRETARY FOR
PUBLIC AND INDIAN HOUSING

SPECIAL ATTENTION OF:

Regional Administrators; Directors of HUD Regional and Field Offices of Public Housing; Public Housing Agencies; Property Owners participating in any Housing Choice Voucher program.

NOTICE PIH 2023-28

Issued: September 29, 2023

Expires: This notice remains in effect until amended, superseded, or rescinded.

Cross References:
24 CFR Parts 5, 35, 882, 982, 983
Notice PIH 2023-16
Notice PIH 2022-01
Notice PIH 2020-31
Notice PIH 2017-20
Notice PIH 2016-05
Notice PIH 2013-17

SUBJECT: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) Administrative Procedures for the Housing Choice Voucher (HCV) Programs

1. Purpose

This notice finalizes the administrative procedures of National Standards for the Physical Inspection of Real Estate (NSPIRE) for the Housing Choice Voucher (HCV) and Project-Based Voucher (PBV) programs (and by reference to HQS, the Section 8 Moderate Rehabilitation Program (Mod Rehab) found in 24 CFR part 882). NSPIRE for HCV and PBV programs, referred to as NSPIRE-V during HUD's demonstration, will be effective October 1, 2023, and will replace Housing Quality Standards (HQS), as previously defined in 24 CFR 982.401, as the inspection standards for these programs. As announced in the Federal Register, "Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE); Extension of NSPIRE Compliance Date for HCV Programs,"[1] HUD extended the compliance date for HCV and PBV programs until October 1, 2024. This notice applies to all Public Housing Agencies (PHAs), including Moving-to-Work (MTW) PHAs, administering Section 8 Housing Choice Voucher programs.

2. Background

On May 11, 2023, HUD published the "Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate

[1] Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE); Extension of NSPIRE Compliance Date for HCV Programs, 88 FR 66882 (September 28, 2023)

(NSPIRE)" final rule in the Federal Register ("NSPIRE final rule").[2] The NSPIRE final rule establishes a new approach to defining and assessing housing quality called the NSPIRE. NSPIRE strengthens HUD's physical condition standards and improves HUD oversight by aligning and consolidating the inspection regulations used to evaluate "HUD housing" as defined in 24 CFR 5.701(c), across multiple programs. Implementation of the NSPIRE final rule ensures that residents of HUD housing live in safe, habitable dwellings. It also ensures that the items and components located both inside and outside, and within the units of HUD housing are functionally adequate, operable, and free of health and safety hazards. The rule also states that HUD will publish NSPIRE Standards through a Federal Register Notice at least once every three years to allow HUD to be responsive to the ever-changing public and assisted housing portfolio and evolving needs and research findings in the field.

During the first phase of implementation, HUD commenced inspections for Public Housing properties and certain Multifamily Housing NSPIRE Demonstration participants beginning July 1, 2023. As described in the final rule, NSPIRE implementation included three core notices: the NSPIRE Standards, NSPIRE Scoring, and NSPIRE Administrative Procedures notices covering the Public Housing and Multifamily Housing programs listed at 24 CFR 5.701. More information on these notices is posted at https://www.hud.gov/program_offices/public_indian_housing/reac/nspire/notices.

HUD is also issuing this Administrative Procedures notice covering the HCV and PBV (and by reference to HQS, the Mod Rehab) programs. Prior to the implementation of NSPIRE, inspections under these programs were conducted in accordance with HQS, as defined in 24 CFR 982.401. This notice informs PHAs that administer these programs of the effective date of implementation of NSPIRE, covers the new NSPIRE Standards, instructs PHAs to update their inspection standards before the compliance date of October 1, 2024, and explains any other changes to the inspection processes.

3. Effective Date

This notice provides guidance for HCV and PBV programs and implements the second phase of the NSPIRE final rule for these programs before the compliance date of October 1, 2024. While compliance is not required before that date, HUD encourages any PHA that is ready to implement NSPIRE to do so at their earliest convenience. With respect to inspections conducted on and after the implementation of NSPIRE for the programs identified above, this notice replaces all HQS guidance previously issued by HUD, including the *Housing Inspection Manual for the Section 8 Existing Housing Program, Chapter 10: Housing Quality Standards* of the 2001 Housing Choice Voucher Program Guidebook[3], and HUD forms 52580 and 52580-A. HUD will issue updates to HCV guidance materials for NSPIRE later this year.

PHAs that will implement inspections using the NSPIRE Standards on or after October 1, 2023, will need to be in communication with their landlords and families regarding the upcoming changes to the inspection standards. All participating landlords and families must be notified of

[2] Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE), 88 FR 30442 (May 11, 2023)

[3] This Guidebook is no longer in effect, but HUD recognizes that because this chapter has not been updated or superseded, it may still be in use by PHAs.

NSPIRE, what the NSPIRE Standards are, and when these changes will take effect for their inspections. To properly prepare for NSPIRE inspections, PHAs must also ensure that inspectors are trained on NSPIRE and any new software or tools they will utilize.

Please note that PHAs with units subject to HQS inspections conducted prior to the effective date identified above shall hold those units and owners subject to HUD's and the PHA's HQS administrative and enforcement policies in effect at the time of those inspections.

4. Extended Compliance Date and Notification to HUD

With this notice, and in accordance with Federal Register Notice, 88 FR 66882, "Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE); Extension of NSPIRE Compliance Date for HCV Programs," PHAs may continue using HQS, as previously defined in 24 CFR 982.401, or other HUD-approved inspection methods as their inspection standards for up to one year, or until October 1, 2024. PHAs are highly encouraged to implement NSPIRE as soon as feasible after October 1, 2023, but must comply with NSPIRE Standards no later than October 1, 2024. Regardless of which inspection standards are used, PHAs are reminded that they must include compliance with the carbon monoxide device requirements required by Congress as of December 2022. PHAs may follow the NSPIRE Carbon Monoxide standard for additional guidance on this requirement. PHAs that opt to retain HQS can continue to utilize current HQS guidance, including HUD forms 52580 and 52580-A.

The PHA must report the decision to continue using HQS or another approved alternative standard to HUD by sending an email to NSPIREV_AlternateInspection@hud.gov with a courtesy copy to their local Field Office representative. The email's Subject line must read "*Notification of Extension of HQS, [PHA Code]"* and the body of the email should include the PHA name, PHA code, a statement that HQS will continue to be used, and what date the PHA tentatively plans to implement NSPIRE (which may be no later than October 1, 2024). This email must be sent no later than 45 days from the issuance date of this notice.

If a PHA implements NSPIRE after October 1, 2023, but before October 1, 2024, the PHA must also notify HUD via email to NSPIREV_AlternateInspection@hud.gov with a courtesy copy to their Field Office representative. The email's subject line must read "*Notification of Implementation of NSPIRE, [PHA code]*" and the body of the email should include the PHA name, PHA code, a statement that NSPIRE will now be used, and what date the PHA is implementing NSPIRE (which may be no later than October 1, 2024).

5. Inspectable Areas

The NSPIRE final rule defines the inspectable areas for the inspection as inside, outside, and units of HUD housing at 24 CFR 5.703:

> ***Unit***. A unit (or "dwelling unit") of HUD housing refers to the interior components of an individual unit. Examples of components included in the interior of a unit may include the balcony, bathroom, call-for-aid (if applicable), carbon monoxide devices, ceiling, doors, electrical systems, enclosed patio, floors, HVAC (where individual units are

provided), kitchen, lighting, outlets, smoke detectors, stairs, switches, walls, water heater, and windows.

Inside. Inside of HUD housing (or "inside areas") refers to the common areas and building systems that can be generally found within the building interior and are not inside a unit. Examples of "inside" common areas may include basements, interior or attached garages, enclosed carports, restrooms, closets, utility rooms, mechanical rooms, community rooms, daycare rooms, halls, corridors, stairs, shared kitchens, laundry rooms, offices, enclosed porches, enclosed patios, enclosed balconies, and trash collection areas. Examples of building systems include those components that provide domestic water such as pipes, electricity, elevators, emergency power, fire protection, HVAC, and sanitary services.

Outside. Outside of HUD housing (or "outside areas") refers to the building site, building exterior components, and any building systems located outside of the building or unit. Examples of "outside" components may include fencing, retaining walls, grounds, lighting, mailboxes, project signs, parking lots, detached garage or carport, driveways, play areas and equipment, refuse disposal, roads, storm drainage, non-dwelling buildings, and walkways. Components found on the exterior of the building are also considered outside areas, and examples may include doors, attached porches, attached patios, balconies, carports, fire escapes, foundations, lighting, roofs, walls, and windows.

While the above definitions include areas and components that are covered by the regulation, they are not all required to be inspected for an HCV or PBV inspection. The inspectable areas for HCV, PBV, and the Mod Rehab programs are defined at 5.705(a)(2):

> *The inspection requirement for the tenant-based HCV program and the unit inspection for the PBV and Moderate Rehabilitation programs only applies to units occupied or to be occupied by HCV, PBV, and Moderate Rehabilitation participants, and common areas and exterior areas which either service or are associated with such units.*

6. NSPIRE Standards

While many HQS items are encompassed in NSPIRE in some way, the focus of NSPIRE is on the condition of dwelling units and prioritizing the health and safety of residents. A major change between NSPIRE and HQS is that the NSPIRE final rule removed the "Site and Neighborhood" requirement for HCV at 24 CFR 982.401(l).

Where to Find the NSPIRE Standards

The standards can be found on the NSPIRE Standards website. You can also find a full list of all Standards in one PDF document attached to the NSPIRE Final Rule. HUD recognizes that the format of the NSPIRE Standards may cause confusion for HCV PHAs who are more familiar with a checklist-type form and a question-and-answer-based list. An Excel checklist has been created and will be provided on HUD's website.

Affirmative Habitability Requirements

NSPIRE also provides for minimum, or affirmative, habitability requirements for each "area" (unit, inside, outside). The areas must meet these requirements for habitability. These affirmative habitability requirements are noted specifically in the Standards, but can also be found in 24 CFR 5.703(b), (c), and (d).

HOTMA Life-Threatening List

Under the Housing Opportunity Through Modernization Act of 2016 (HOTMA), as part of the "*Implementation of Various Section 8 Voucher Provisions*," HUD published a list of life-threatening conditions ("HOTMA LT List") in the Federal Register.[4] HUD has included the HOTMA LT List in the NSPIRE Standards and this life-threatening (LT) will become mandatory for all HCV PHAs at the time of NSPIRE implementation. Previously, the list of LT deficiencies was either discretionary and up to the PHA, or PHAs were required to adopt HUD's HOTMA LT List if they had implemented HOTMA's initial inspection provisions (under Notice PIH 2017-20). The HOTMA LT List, published with the final NSPIRE Standards on June 22, 2023, will no longer be discretionary. In addition to being listed within the individual Standards, the HOTMA LT List can also be found separately in Table 65 of the Standards at: https://www.hud.gov/sites/dfiles/PIH/documents/6092-N-05nspire_final_standards.pdf.[5]

PHAs can still add additional items to the list of items considered LT conditions. If a PHA wishes to include additional LT deficiencies beyond the HOTMA LT List, they would need to be identified and adopted as LT into the PHA's Administrative Plan. Any HUD-approved acceptability criteria variations that the PHA would like to identify as LT under NSPIRE, will also need to be identified and adopted as LT into the PHA's Administrative Plan (see section *7. Variations* of this notice).

Timelines for Correcting Deficiencies

HUD has aligned NSPIRE with HOTMA, and for the HCV programs, Life-Threatening deficiencies must be corrected within 24 hours after such notice has been provided. All other non-life-threatening deficiencies, known as *Severe and Moderate*, must be corrected within 30 days (or a PHA-approved extension) after such notice has been provided. There are some deficiencies considered *Low* that even if present in the HCV programs will result in a **pass** and would only be noted by the inspector for information purposes. If a failed deficiency (Life-Threatening, Severe, or Moderate) is not corrected within the required timeframe, the PHA must initiate Housing Assistance Payment (HAP) Contract enforcement, which can include withholding or abatement of assistance payments, terminations, or relocations.

Scoring

The NSPIRE Scoring Notice does not apply to the programs covered in this notice. HCV, PBV, and Mod Rehab inspections are not numerically scored and NSPIRE retains pass/fail indicators. Pass inspections require no further action by the PHA, family, or landlord. Fail inspections will require follow-up, re-inspections, or verification to confirm the correction of the failed

[4] Housing Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions, 82 FR 5458

[5] National Standards for the Physical Inspection of Real Estate: Inspection Standards, 88 FR 40832.

standards.[6] Each individual NSPIRE Standard indicates whether a deficiency would result in a pass or fail for the unit under the HCV programs.

Self-Inspections

24 CFR 5.707 exempts landlords participating in HCV, PBV, and Section 8 Mod Rehab programs from any self-inspection requirements.

Lead-Based Paint Hazards, Mold and Moisture, and Pest Infestations

As discussed in the NSPIRE Administrative Procedures Notice applicable to Public Housing and Multifamily Housing programs, HUD allows flexibility for what is considered an appropriate correction for lead-based paint, mold and moisture, and pest infestations within 24 hours. All these conditions may take a significant time to permanently control. PHAs may consider this language in considering corrections made by property owners/landlords. For lead-based paint and the programs covered in this notice, PHAs and owners shall continue to comply with the requirements and timelines in 24 CFR Part 35 Subpart M—Tenant-Based Rental Assistance, and Subpart H—Project-Based Assistance. PHAs and owners are reminded that any deteriorated paint in target housing, or other lead-based paint hazard identified through a lead-based paint risk assessment or lead-based paint inspection is considered a violation of HQS and the NSPIRE Standards. For the tenant-based programs, Subpart M applies to units where a child under age 6 resides or is expected to reside, common areas that service that unit, and exterior painted surfaces associated with that unit or common areas. For project-based programs, Subpart H applies to assisted units and common areas of the property regardless of whether a child under age 6 resides or is expected to reside in the unit. The NSPIRE final rule did not alter any of the lead-based paint requirements in Part 35 for these programs.

7. Variations

NSPIRE does not alter the existing flexibilities that allow PHAs to propose, for HUD approval, acceptability criteria variations. 24 CFR 5.705(a)(3) (formerly found at § 982.401(a)(4)), states that HUD may approve variant inspection standards for the HCV and PBV programs.

After a PHA's implementation of NSPIRE, previous variation approvals under HQS that do not align with NSPIRE Standards must be re-reviewed by HUD. PHAs must determine if any previously approved variation they wish to continue is now a variation of the NSPIRE Standards just as they did under HQS acceptability criteria. If the PHA determines the need for a variation still exists, they must submit a request to HUD as described below. If the PHA is unable to make the determination or unsure whether or not a variation aligns with NSPIRE, they are welcome to submit these as requests for HUD determination as well.

Please note, NSPIRE will no longer allow for the use of unvented, fuel-burning space heaters because of the risk of carbon monoxide exposure. For PHAs that continue to use HQS for inspections on or after October 1, 2023, and currently have a HUD-approved variation allowing the PHA to approve the use of unvented, fuel-burning space heaters, this approval will be

[6] Verification can include photos (Notice PIH 2013-17: *Housing Choice Voucher (HCV) Program – Review of Existing HQS Requirements and the Use of Photos to Improve HQS oversight*) or remote video (Notice PIH 2020-31: *Remote Video Inspections for Housing Choice Voucher Program*) in accordance with PHA Policy.

rescinded effective January 1, 2024. PHAs must provide all owners and currently assisted families with a written notice, no later than November 1, 2023, that such space heaters must be removed and replaced with an appropriate heating source as soon as possible, but no later than December 31, 2023. For any initial inspection that occurs on or after October 1, 2023, PHAs may not execute a new Housing Assistance Payments (HAP) contract for a unit with an unvented, fuel-burning space heater. The owner must provide an appropriate heating source prior to HAP contract execution. During any scheduled periodic inspection that occurs between October 1, 2023, and December 31, 2023, the presence of an unvented, fuel-burning space heater must be cited, and the owner must remove and replace it with an appropriate heating source no later than December 31, 2023. The owner must also ensure that if there is no carbon monoxide device in the unit, one must be installed within 24 hours, in accordance with statutory requirements. For inspections that occur on or after January 1, 2024, the presence of an unvented, fuel-burning space heater will be considered a failed item under HQS that the owner must correct in accordance with regulatory requirements and PHA-established timeframes. If the owner doesn't correct the deficiency within the required timeframes, the PHA must abate HAP and enforce the owner obligations in accordance with program requirements in 24 CFR 982.404.

PHAs that wish to apply for approval of variant inspection standards from the NSPIRE Standards must email REAC at NSPIREV_AlternateInspection@hud.gov with a courtesy copy to their Field Office representative.

The Subject line of the email should read *"Variation Request, [PHA Code]"*
Requests for variations should include the following:

- **a.** Name and Code of the PHA requesting the variation.
- **b.** The variation requested or the current standard requested to be modified.
- **c.** The local condition or housing code that supports the request.[7]
- **d.** Justification for approval:
  Whether the variation meets or exceeds the performance requirements under NSPIRE, or
  How the variation will significantly expand housing opportunities for families.

HUD expects these determinations to be made in approximately 30-45 days. PHAs should continue business as usual while HUD makes these determinations. Any approved variations must be added to the PHA's Administrative Plan. If the PHA is denied the use of a variation, the PHA must revise its inspection protocol to meet the NSPIRE Standards before October 1, 2024.

This variation process is not intended to include any individual determinations of a reasonable accommodation.[8] PHAs maintain their responsibility to review all reasonable accommodation requests made by an individual with a disability. These requests are made on a case-by-case basis and do not involve overall changes or variations to a PHA's inspection standards. Therefore, these determinations are made by the PHA and would not involve HUD approval under this variation process.

[7] Local conditions or housing codes may have been imposed by a court or administrative order or by a voluntary legal agreement.
[8] In accordance with Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Fair Housing Act.

8. NSPIRE Processes and Procedures

NSPIRE did not change elements of the program already established in the Housing Opportunity Through Modernization Act of 2016 (HOTMA), or any of the HCV and PBV regulations on inspection timing or protocols.

Different Types of Inspections

PHAs are still required to conduct three types of inspections in accordance with HCV program guidance: initial, periodic (at least biennially, or at least triennially for small rural PHAs), and special (which includes tenant-requested/complaint inspections and quality control) inspections. NSPIRE makes no changes to this for the HCV programs.

Units under a PBV HAP Contract[9] continue to be subject to all turnover inspections for new families moving in and a random sampling of at least 20 percent of the contract units for periodic NSPIRE inspections. Like HCV, the random sample must be done at least biennially, or at least triennially for small rural PHAs.

Mod Rehab units under Contract are still subject to inspection at least annually in accordance with 24 CFR 882.516.

Entity Conducting Inspections

NSPIRE aligns the inspection standards of different HUD programs but does not change the entity responsible for conducting the inspections. PHAs, any approved alternative inspection method entity per 24 CFR 982.406, or in the case of PHA-owned units, a HUD-approved independent entity, will continue to inspect HCV, PBV, and Mod Rehab units.

NSPIRE Enforcement

The PHA may continue to exercise any of its rights or remedies under the contracts held with landlords and families. This may include abatement of assistance payments to the landlord, termination of the HAP Contract, or potential termination of assistance to the family (in cases of tenant-caused damages).

PHA Policy

In any matter where a PHA has the discretion and elects to use its discretion, its Administrative Plan must be revised and updated. PHAs should also note that in accordance with 24 CFR 982.54, inspection performance standards and procedures for conducting inspections must be included in the Administrative Plan. If these changes to the Administrative Plan meet the PHA's definition of a Significant Amendment to the PHA Plan, the PHA will also need to amend the PHA Plan in accordance with 24 CFR 903.21.

9. Special Housing Types (24 CFR Part 982 Subpart M)

NSPIRE makes no substantive changes to subpart M, Special Housing Types other than to update the definition of HQS. Housing that meets NSPIRE's affirmative habitability standards (24 CFR 5.703(d)) can be considered eligible for HUD assistance. Unless specifically modified

[9] See 24 CFR 983.103(a) & (b) for information on inspections prior to executing a PBV HAP Contract.

by subpart M, NSPIRE Standards will apply to these special housing types (Single Room Occupancy, Congregate Housing, Group Homes, Shared Housing, Manufactured Homes, Homeownership units).

10. Alternative Inspection Methods

NSPIRE did not alter existing flexibility for PHAs to rely on alternative inspection methods. In accordance with 24 CFR 982.406, PHAs may utilize inspections of housing assisted under the HOME program, housing financed using Low-Income Housing Tax Credits (LIHTC), inspections conducted by HUD/REAC, or alternative methods otherwise approved by HUD[10] to comply with inspection requirements. Any alternative inspection method that is not HOME, LIHTC, or otherwise conducted by HUD, will need HUD review and approval.
After a PHA's implementation of NSPIRE, previous alternative inspection methods approved by HUD must be re-analyzed by the PHA against NSPIRE Standards and resubmitted to HUD for review and approval. PHAs that wish to rely on an alternative inspection method requiring HUD approval must be sent to REAC via email at NSPIREV_AlternateInspection@hud.gov with a courtesy copy to their Field Office representative.

The Subject line of the email should read "*Alternative Inspection Method, [PHA Code]*"
Requests for alternative inspection methods should include the following:

- **a.** Name and Code of the PHA requesting the alternative method.
- **b.** A copy of the method being proposed.
- **c.** The PHA's analysis showing how the method will meet or exceed all NSPIRE Standards.

HUD expects these determinations to be made in approximately 30-45 days. PHAs should continue business as usual while HUD makes these determinations. Any approved alternative inspection methods, including those already approved by regulation, must be identified in the PHA's Administrative Plan.[11] If the PHA is denied the use of an alternative inspection method requested, the PHA must revise its inspection protocol to meet the NSPIRE standards before October 1, 2024.

11. Updated NSPIRE Inspection Form

PHAs continuing to use HQS as previously defined can continue to use HUD forms 52580 and 52580-A until they implement NSPIRE, or until October 1, 2024, whichever is sooner. PHAs that implement NSPIRE should not use these forms. In the interim, HUD strongly encourages PHAs to use the NSPIRE inspection app as soon as it becomes available. Use of this tool will allow PHAs to automate the inspection, have data available electronically, and perform data analysis for trends in conditions or landlord compliance. PHAs may also utilize the NSPIRE Standards available online, use an application provided by a commercial vendor that is based on final NSPIRE Standards (currently 3.0), or the basic checklist that will be provided on HUD's website. HUD notes that the use of a tool or application not provided by HUD may not ensure full compliance with the NSPIRE regulations and standards. It will be the PHA's responsibility to comply with current standards.

[10] See 24 CFR 982.406, 24 CFR 5.703(g), and Notice PIH 2016-05.
[11] See 24 CFR 982.406 for additional information.

HUD is seeking ongoing feedback on the Excel checklist provided and the application when it is ready for use. Any comments or suggestions PHAs have on these tools can be sent to NSPIRE@hud.gov (please use the Subject line *"NSPIRE Tool Feedback"*).

12. Use of Software or NSPIRE Inspection Tool

Currently, HUD's NSPIRE-V Demonstration application is available for PHAs participating in the NSPIRE-V Demonstration and will continue to be available for those PHAs. The app currently utilizes NSPIRE Standards 2.2 but can continue to be used by these Demonstration PHAs while they come into full compliance with NSPIRE before October 1, 2024. This software needs modification to be available for general use, as it was designed to collect and transmit HCV and PBV inspection information to HUD. The NSPIRE final rule does not change any requirements for PHAs to submit their HCV or PBV inspections to HUD.

HUD will provide a future application that PHAs and PHA inspectors can use on their mobile devices or tablets for the HCV and PBV programs. This tool will be aligned with the NSPIRE standards and will include HCV pass/fail indicators to help ensure consistent and accurate inspections. HUD has also been working with industry groups and software providers to get their programs ready for the NSPIRE standards. PHAs can choose to use the tool, software, or application that works best for them and their program, as long as the tool is based on the latest version of the NSPIRE Standards (currently 3.0).

13. Training

HUD has developed training that includes a combination of PowerPoint presentations, infographics as well as instructional videos that are posted on the NSPIRE website. As we move toward implementation for HCV and PBV programs, additional training will be made available. For more information on NSPIRE, visit the NSPIRE homepage. Questions regarding training can be sent to NSPIRE@hud.gov.

14. Additional Information

Questions about this notice? Please contact Dana M. Kitchen, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410-4000, telephone number 202-708-1112 (this is not a toll-free number), NSPIRE@hud.gov.

HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.

Please also see HUD's continually growing NSPIRE website.[12] HUD will post frequently asked questions, resources for all interested parties, updates to NSPIRE, and training for PHAs.

[12] See HUD's NSPIRE website at: https://www.hud.gov/program_offices/public_indian_housing/reac/nspire.

In between NSPIRE inspections, HUD continues to encourage residents to quickly report hazards or defects in building systems, fixtures, appliances, or other parts of the unit, the grounds, or related facilities to their landlord, property owner, manager, PHA contact, or PHA Board of Commissioners (as applicable). PHAs should also keep residents informed of the status of residents' requests and ensure that properties are maintained in accordance with the NSPIRE regulations and Standards.

Richard J. Monocchio
Principal Deputy Assistant Secretary
Office of Public and Indian Housing

Exhibit CC

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Directors of HUD Regional and Field Offices of Public Housing;
Agencies that Administer the Housing Choice Voucher (HCV) Program

Notice PIH 2024-30

Issued: August 20, 2024

Expires: This notice remains in effect until amended, superseded, or rescinded.

Cross References: PIH 2020-01 (This notice updates Sections 5 (f) and (g) of PIH 2020-01); PIH 2012-31.

Subject: Statutory and Regulatory Waivers for Mainstream Vouchers

1. Purpose

Pursuant to the Consolidated Appropriations Act, 2024 (Public Law 118-42), this notice establishes waivers and alternative requirements for Mainstream Vouchers.

2. Background

The Consolidated Appropriations Act, 2024 (Public Law 118-42) ("2024 Act") authorized the Department of Housing and Urban Development (HUD) to establish waivers and alternative requirements for Mainstream Vouchers that are necessary for the effective delivery and administration of funds. Per section 243 of the 2024 Act, HUD may waive or specify alternative requirements for Section 8(o)(6)(A) of the United States Housing Act of 1937 (1937 Act) (42 U.S.C. 1437f(o)(6)(A)) and regulatory provisions related to the administration of waiting lists, local preferences, and the initial term and extensions of tenant-based vouchers. HUD is not permitted to waive requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards, and the environment.

Mainstream Vouchers are special purpose vouchers for non-elderly persons with disabilities that are subject to the requirements in Section 8(o) of the 1937 Act and 24 CFR 982 except as provided in this notice and any subsequent notice issued by HUD. However, funding and reporting for Mainstream Vouchers is separate from the HCV program.

In targeting housing assistance to non-elderly persons with disabilities and their families, particularly those transitioning out of institutions or at serious risk of institutionalization, Mainstream Vouchers help further the goals of the Americans with Disabilities Act (ADA). One specific goal under the ADA is to ensure that services, programs, and

activities are provided by public entities in the most integrated setting appropriate to the needs of persons with disabilities. In *Olmstead v L.C.* 527 U.S. 581 (1999), the United States Supreme Court affirmed the rights of persons with disabilities under the ADA to participate in community living. Recognizing that housing plays a central role in supporting community integration, HUD's policy priorities for Mainstream Vouchers reflect its commitment to help public housing agencies (PHA) further localities' and states' implementation of *Olmstead*-related efforts and compliance with the ADA.

The waivers and alternative requirements described below are intended to provide programmatic flexibilities to help PHAs improve Mainstream utilization and more successfully target Mainstream-eligible populations, including persons exiting institutions or at serious risk of institutionalization. PHAs with outstanding *Olmstead*-related litigation or enforcement activities, as well as those undertaking affirmative *Olmstead* planning and implementation efforts, who wish to establish preferences that target individuals with specific disabilities must request HUD approval. The process for requesting approval for a remedial preference targeting individuals with specific disabilities is outlined in Notice PIH 2012-31. *See also* Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead*, https://www.hud.gov/sites/documents/OLMSTEADGUIDNC060413.PDF (Question 3).

3. Applicability

The waivers and alternative requirements listed below are applicable to all PHAs awarded Mainstream Vouchers and PHAs that administer Mainstream Vouchers through a portability billing arrangement. This Notice does not apply to Non-Elderly Disabled (NED) Vouchers or "Mainstream 1 Year" Vouchers.

4. Effective Date

This notice is effective upon publication.

5. Compliance Date

PHAs must adopt the mandatory policies described in Section 6 within 120 days from publication of this notice.

6. Mandatory Program Policies: This section describes the mandatory waivers and alternative requirements that HUD is establishing for Mainstream Vouchers. A summary of the mandatory waivers and alternative requirements is included in Attachment I of this notice.

a. Initial Search Term. Many Mainstream Voucher applicants face challenges in their housing search. Tight rental markets coupled with specific unit needs (e.g., accessible units, units near medical or supportive services, units near public transit, units meeting other disability-related needs, etc.) may require applicants to need

additional time to search for a suitable unit. HUD is waiving 24 Code of Federal Regulations (CFR) 982.303(a), which requires an initial search term of at least 60 days, and establishing an alternative requirement that the initial search term for a Mainstream Voucher must be at least 120 days. The initial 120-day term also applies when a family chooses to move to a new unit with continued assistance inside or outside the PHA's jurisdiction, in accordance with 24 CFR 982 subpart H.

When issuing a Mainstream Voucher, PHAs also must provide a current listing of available accessible units known to the PHA and, if necessary, otherwise assist the family in identifying an accessible unit (24 CFR 8.28(a)(3)).

b. Extensions of Term. The PHA's administrative plan must describe its policies for granting extensions of the initial 120-day term (24 CFR 982.303(b)(1)) and provide clear instructions to families on the procedures for requesting an extension. If a family requires additional time for their unit search, PHAs are required to provide an extension as part of a reasonable accommodation under Section 504 of the Rehabilitation Act and HUD's Section 504 requirements (24 CFR part 8; *See also* 24 CFR 982.303(b)(2)). While all Mainstream Voucher applicants include a family member with a disability and are eligible for an extension as part of a reasonable accommodation, PHAs have considerable discretion in the details they may establish for their general extension policy under (24 CFR 982.303(b)(1)) outside of the context of reasonable accommodations, including the deadline for requesting an extension and the length of the extension. National voucher success rates and median search times indicate that, on average, Mainstream Voucher applicants take longer to lease than HCV applicants and are more likely to ultimately be unsuccessful in using their voucher compared to other special purpose voucher applicants. As discussed above in Section 6(a), multiple circumstances may contribute to the barriers that Mainstream Voucher applicants experience in successfully leasing.

Given the challenges Mainstream Voucher applicants may face in securing a unit, applicants should be provided with flexible extension policies. To support this need, HUD is waiving 24 CFR 982.303(b)(1) and establishing an alternative requirement for the process of requesting search extensions. PHAs must adopt an extension policy for Mainstream Vouchers that includes the following: 1) each extension must be for a minimum of 90 days, 2) the PHA must approve the first extension request, regardless of how the request is made (written or verbal) or when it is made, as long as the request is made on or before the term expiration date and is consistent with applicable requirements; subsequent requests should be processed in accordance with the PHA's administrative plan, and 3) the PHA must, on at least one occasion after voucher issuance, notify the family prior to the initial term expiration to remind them of the term expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search. PHAs should be aware that families may require more than the minimum required initial extension to successfully lease up and must grant additional extensions if requested in accordance with the PHA's administration plan.

As part of its search extension policy, PHAs may not restrict a first extension approval to certain circumstances or require documentation from applicants. For all extension requests, the written or verbal request is sufficient. Note that this alternative requirement also applies to current Mainstream Voucher participants who choose to move to a new unit with continued assistance inside or outside the PHA's jurisdiction, in accordance with 24 CFR 982 subpart H. In providing notice to families of the expiration date and extension request process, PHAs must ensure effective communication with persons with disabilities, including those with vision, hearing, speech, intellectual or other developmental disabilities, or any other communication-related disabilities.

While HUD is establishing an alternative requirement to 24 CFR 982.303(b)(1), HUD reminds PHAs that 24 CFR 982.303(b)(2) requires PHAs to approve all extensions made as part of a reasonable accommodation and PHAs must provide this information during the family briefing (24 CFR 982.301(a)).

c. **Residency Preference**. Because Mainstream Vouchers are intended to facilitate access to housing for individuals with disabilities, including for individuals who reside in institutional or other segregated settings that may not be located in the geographic area that is typically served by a PHA, a residency preference may prevent an otherwise eligible applicant from accessing Mainstream Vouchers. Consequently, HUD is waiving Section 8(o)(6)(A) of the 1937 Act and 24 CFR 982.207(b)(1) and establishing an alternative requirement under which a PHA cannot apply a residency preference to Mainstream Voucher applicants.

7. **Discretionary Program Policies.** This section describes the optional waivers that HUD is establishing for Mainstream Vouchers. PHAs may choose, but are not required, to adopt any optional waivers. PHAs that choose to adopt any of the optional waivers described below must describe those policies in their administrative plan (24 CFR 982.54(d)(1)). A summary of the optional waivers is included in Attachment I of this notice.

   a. **Waiting Lists.** HCV regulations require PHAs to use a single waiting list for admission to its Section 8 tenant-based assistance program. Accordingly, PHAs select Mainstream Voucher applicants from its HCV waiting list (24 CFR 982.204(f)). This requirement has led to challenges for some PHAs in administering Mainstream Vouchers, as it can be time-consuming and burdensome to identify eligible applicants from long HCV waiting lists. Further, PHAs may find it challenging to identify eligible applicants if the PHA has an established preference for targeted subgroups identified in a Mainstream Voucher Notice of Funding Opportunity (NOFO), such as persons transitioning out of institutional or other segregated settings.[1]

   To assist PHAs in identifying eligible applicants and enable PHAs to more effectively

[1] The 2017 Mainstream Voucher NOFO and 2019 Mainstream Voucher NOFO provided points to PHAs certifying a plan to adopt a preference for certain subgroups.

allocate Mainstream Vouchers, HUD is waiving 24 CFR 982.204(f) and establishing an optional waiver to maintain a separate Mainstream waiting list.

Successful establishment of a separate Mainstream Voucher waiting list requires PHAs to have or to obtain applicants' disability status to determine eligibility for Mainstream Vouchers so they can be placed on the Mainstream Voucher waiting list. To expedite issuance of Mainstream Vouchers under this notice, PHAs should determine as quickly as possible which applicants on the existing HCV waiting list are families that include non-elderly individuals who have a disability that qualifies them for Mainstream Vouchers if this information has not already been collected. That information will facilitate the prompt and effective notification of existing applicants that qualify for Mainstream Vouchers or nondiscriminatory preferences described in this notice. PHAs may obtain disability status by direct outreach to families who are currently on the HCV waiting list. HUD encourages PHAs to collect information on disability status for all applicants at the pre-application and/or the application stages.

If a PHA chooses to create a separate Mainstream Voucher waiting list, the PHA must ensure effective communication of notice is provided to ensure that families on its HCV waiting list are informed of the separate Mainstream Voucher waiting list and have an opportunity to be placed on the list. In providing this notice, PHAs must ensure effective communication of this change to persons with disabilities, including persons with vision, hearing, speech, intellectual or developmental disabilities, or any other communication-related disabilities. Effective communication is especially significant because Mainstream Vouchers are intended to serve individuals with disabilities.

PHAs must ensure effective communication of notice is provided by taking a combination of actions, which may include:

- individually notifying families that identified as having a family member with a disability at the time of application or pre-application;
- individually notifying a reasonable percentage of families from the top of the existing HCV waiting list given the anticipated number of Mainstream Vouchers that a PHA will be issuing in the next five years, while not denying the opportunity for any other household on the HCV waiting list to also be placed on the Mainstream Voucher waiting list;
- ensuring outreach to organizations serving persons with disabilities and service organizations so there is widespread awareness of the availability of a separate waiting list and how to access this resource;
- providing information on social media sites; and
- other communication methods.

PHAs must also inform families on the HCV waiting list of the Mainstream Voucher waiting list by either posting the information to their website or providing public notice in their communities.

When notifying families and providing notice, the PHA must describe the eligibility criteria for Mainstream Vouchers and describe the actions a family should take to be added to the Mainstream Voucher waiting list. The PHA notice should also make clear to applicants that if they decide to be included on the Mainstream waiting list, they will not lose their position on the HCV waiting list. PHAs must also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP). If a PHA does not pursue the optional waiver to maintain a separate Mainstream waiting list, the PHA must still ensure program access for individuals with disabilities.

To support the effective administration of Mainstream Vouchers and the expeditious implementation of a separate Mainstream waiting list, PHAs may choose and are strongly encouraged to commence notifying (as described above) families on the HCV waiting list before the establishment of a separate Mainstream waiting list is formally adopted by the PHA Board of Commissioners or other authorized PHA officials in the PHA administrative plan. The PHA notice in such a case must explain that the establishment of the Mainstream waiting list is dependent on the amendment to the PHA administrative plan being formally adopted but that families are strongly encouraged to take the necessary action now to ensure that their names are placed on the Mainstream waiting list as seamlessly and expeditiously as possible. Conducting the outreach process to HCV waiting list applicants concurrently with the actions necessary to formally adopt the establishment of the separate Mainstream waiting list in the PHA administrative plan is an important consideration for PHAs that wish to implement the separate Mainstream waiting list promptly. Taking such action allows the PHA to ensure the HCV waiting list applicants are provided reasonable time to complete the actions necessary to be added to the Mainstream waiting list at its inception without having to unduly delay the implementation and the associated benefits and efficiencies offered by the Mainstream waiting list.

PHAs must allow 60 calendar days for the effective communication of notice and to provide families an opportunity to respond before issuing vouchers from the separate Mainstream waiting list. This 60-day period may commence whenever a PHA elects to do an early notification as described above. In the interim, PHAs can continue to use its HCV waitlist for issuing Mainstream Vouchers.

PHAs may use either date and time of application or a drawing or other random choice technique in selecting families from the Mainstream waiting list among applicants with the same preference status in accordance with the PHA's administrative plan. For PHAs that rely on the date and time of application in determining the order in which families are selected from the Mainstream waiting list, HUD is waiving 982.207(c)(1) and establishing as an alternative requirement that the application date and time of the family's prior HCV application must be used for those Mainstream applicants that are already on the HCV waiting list. For example, if the PHA determines the order of selection for families that qualify for the same Mainstream waiting list local preference by date of application, the date used to

determine the family's place on the waiting list compared to the other families who qualify for that preference is the date of their application for the HCV program. However, the order that families may be reached on the Mainstream waiting list compared to the regular HCV waiting list may be different depending on the local preferences the PHA establishes for the Mainstream waiting list. Selection from the Mainstream waiting list will be in accordance with local preferences that the PHA establishes for Mainstream Voucher applicants. This may result in the selection of families from the Mainstream waiting list who were not previously on the HCV waiting list ahead of those who were on the HCV waiting list based on the family's eligibility for a Mainstream applicant preference.

b. Local Preferences. While PHAs may establish local preferences based on local housing needs and priorities (24 CFR 982.207(a)), HCV regulations do not permit PHAs to establish separate preferences for Mainstream Voucher applicants. Preferences apply to all vouchers on the waiting list. HUD is waiving 24 CFR 982.207(a)(1) and establishing an optional waiver permitting PHAs to establish separate preferences for Mainstream Voucher applicants. Regardless of whether a PHA chooses to adopt separate Mainstream Voucher preferences, PHAs that claimed points for a preference in a NOFO must continue to maintain a preference for at least one of the targeted groups in the NOFO. PHAs may choose to apply NOFO preferences to its entire HCV waiting list or only to Mainstream Voucher applicants as a separate Mainstream Voucher preference.

PHAs currently have the option, without an optional waiver, to establish a preference for applicants referred from certain agencies. Using the optional waiver described in the paragraph above, PHAs may choose to establish a referral preference specifically for Mainstream Voucher applicants. Referral partners may refer potential Mainstream Voucher participants directly to the PHA for processing, and such individuals can be placed on the Mainstream waiting list. A formalized partnership with a referring agency is not required for Mainstream Voucher referrals, but HUD encourages PHAs to execute MOUs with agencies providing referrals. A sample MOU can be found here. PHAs that choose to use direct referrals from other agencies to place individuals onto their waiting list must make such information publicly available, by providing clear information on these partnerships and the direct referrals process on their website and in their administrative plan, including the names and contact information of their partnering agencies (24 CFR 982.54(d)(1)). Written documentation of these referrals must be maintained in the tenant file by the PHA.

When engaging in such partnerships and accepting referrals, PHAs must ensure that they are not discriminating based on disability type or on the basis of any other federally protected class. Referral partnerships cannot create, directly or indirectly, requirements to receive Mainstream Vouchers that may violate nondiscrimination requirements under any applicable federal civil rights laws, including Section 504 of the Rehabilitation Act (Section 504), the Fair Housing Act, Title VI of the Civil Rights Act (Title VI), the ADA, and the Age Discrimination Act, among others. This

means, for example, that a PHA cannot restrict Mainstream Vouchers to those referred by a specific state or local agency that provides services only to individuals with specific types of disabilities or diagnoses because such an arrangement would exclude individuals with other types of disabilities who are eligible to receive a Mainstream Voucher. Accordingly, if a PHA partners with such an organization, the PHA also must have a partnership with at least one organization that will accept and refer any potentially eligible applicant. Potential referral sources that may serve individuals with all types of disabilities and therefore will refer any potentially eligible applicant include Continuums of Care, Independent Living Centers, Area Agencies on Aging, and fair housing initiatives programs. So long as the PHA has a referral partnership with a source that serves all individuals regardless of types of disability, the PHA may create additional partnerships with disability-specific referral services or other sources that may not serve individuals with all types of disabilities, such as state Medicaid agencies. In implementing this referral process, a PHA cannot prioritize referrals from one referral source over others or provide any priority or preference over other referral sources in allocating vouchers and developing a waiting list. Any proposed preferences must comply with federal fair housing and civil rights authorities, including, but not limited to, the Fair Housing Act, Section 504, Title VI, the Age Discrimination Act, among others (24 CFR 5.105(a)).

These partnerships are intended to help PHAs more efficiently identify eligible beneficiaries and quickly utilize vouchers. Such partnerships also help facilitate access to individuals who are exiting institutional settings. Given the challenges in timing and ensuring a voucher is available when an individual is ready to leave an institutional setting, this type of arrangement allows an agency to better ensure a voucher will be available when an individual is ready to exit an institutional or other segregated setting, coordinate any application and screening issues, and build in time for finding a unit that meets the individual's disability-related needs. This advanced planning and coordination should help facilitate a timely move into a community-based, affordable, and integrated housing opportunity.

8. **Reasonable Accommodations**. As a reminder, PHAs administering Mainstream Vouchers and landlords receiving Mainstream Vouchers may need to provide various reasonable accommodations for individuals with disabilities to ensure program access. A common reasonable accommodation is providing approval for exception payment standards (24 CFR 982.503(d)(5)), so that an individual with a disability is able to rent a unit that meets their disability-related needs in terms of features, location, or other characteristics, as well as the possible need for additional space to accommodate a live-in aide or additional equipment. Other examples of types of reasonable accommodations that may be needed in HCV programs, including Mainstream Vouchers, to ensure program access include, but are not limited to: assistance in or modifications to the application process and procedures; permitting assistance animals in housing; and providing additional time or other modifications for an individual with a disability who is unable to move within a specific time period because of their disability when the individual reaches the top of a waiting list (e.g., due to hospitalization, treatment, or other disability-related reasons). In addition, a PHA is required to take appropriate steps to

ensure effective communication with applicants, beneficiaries, and members of the public.[2] This effective communication obligation is separate from and in addition to a PHA's reasonable accommodation obligations.

9. **Information Contact.** Inquiries about this notice should be directed to MainstreamVouchers@hud.gov.

10. **Paperwork Reduction Act.** The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The active information collections contained in this notice have been approved under the PRA OMB Control Number 2577-0169.



Richard J. Monocchio
Principal Deputy Assistant Secretary
Office of Public and Indian Housing

[2] 24 CFR 8.6 Communications (Section 504); 28 CFR part 35, Subpart E –Communications (Title II ADA).

Exhibit DD

U.S. Department of Housing and Urban Development
Public and Indian Housing

Special Attention of: Directors of HUD Regional and Field Offices of Public Housing; Agencies that Administer the Housing Choice Voucher Program.	**Notice PIH 2010-11 (HA)** Issued: April 13, 2010 Expires: April 30, 2011

Cross References:
Notice PIH 2008-13 (HA)
24 CFR § 982.505(d)
24 CFR § 982.503(c)(2)(ii)

Subject: Requests for Exception Payment Standards for Persons with Disabilities as a Reasonable Accommodation

1. Purpose. The purpose of this notice is to extend (with minor revisions) Notice PIH 2008-13 which provided guidance on the process for review and approval of special payment standards under the Housing Choice Voucher program as a reasonable accommodation for a family with a person with disabilities. It clarifies the process for calculating exception payment standards and the type of supporting documentation and information that should be included in the waiver request.

2. Background. As stated in Notice PIH 2005-5 (extended indefinitely by PIH Letter L-2007-1), one of the purposes of an exception payment standard is to ensure that a family with a person with disabilities can rent a unit that meets the disabled person's needs.

On a case-by-case basis, as a reasonable accommodation, a PHA may approve a payment standard amount up to 110 percent of the published fair market rent (FMR) if its payment standards are set below 110 percent of the FMR in accordance with 24 CFR § 982.505(d). Such higher payment standards must be requested by the family and subsequently approved, as necessary, by the PHA **after** a family with a disabled person or an individual person with disabilities locates a unit.

The HUD Field Office Public Housing Director can approve exception payment standards above 110 percent to 120 percent of the FMR as a reasonable accommodation in accordance with 24 CFR § 982.503(c)(2)(ii). HUD Headquarters must waive 24 CFR § 982.505(d) to allow the PHA to approve any exception payment standards higher than 120 percent of the FMR as a reasonable accommodation.

3. Calculation Process. Since the family's rent share is capped at 40 percent of monthly adjusted income at initial occupancy when the gross rent exceeds the payment standard, the

difference between 40 percent of monthly adjusted income and 30 percent of monthly adjusted income (i.e., 10 percent of monthly adjusted income) is subtracted from the gross rent (contract rent plus utility allowance) to determine the adjusted gross rent. Please note that the 40 percent cap will also be applied to families that need an exception payment standard to remain in their assisted units.

The adjusted gross rent is divided by the FMR for the unit size to determine its percentage of the FMR. If the adjusted gross rent is not more than 110 percent of the FMR, the PHA can review and approve the request. If the adjusted gross rent is more than 110 percent, but not more than 120 percent of the FMR, the review and approval may be done by the field office. If the adjusted gross rent is above 120 percent of the FMR, the request must be submitted to Headquarters. In all cases the approved exception payment standard should equal the adjusted gross rent. An example of the calculation process is attached.

4. Documentation for Exception Payment Standard Requests. To facilitate the review for an exception payment standard as a reasonable accommodation, the PHA should include the following documentation in its request:

A. Note whether the family is an applicant or participant family.

B. The number of household members including a live-in aide/s.

C. The voucher size the family is issued under the PHA's subsidy standards or any exception to those standards granted through a reasonable accommodation request; e.g., as a reasonable accommodation, a single-person family may be issued a two-bedroom voucher due to a need to store medical equipment.

D. The FMR for the voucher size or unit size whichever is smaller.

E. When either the disability or the need for the requested accommodation is not known or readily apparent, a statement from a health care provider regarding the need for the reasonable accommodation and the features of the unit (which may include its location) which meet that person's needs.

F. The contract rent and utility allowance for the unit.

G. A statement from the PHA that it has determined the rent for the unit is reasonable, and that the unit has the feature/s required to meet the needs of the person with disabilities as noted in the statement from the health care provider where such a statement is necessary (see E. above).

H. The household's monthly adjusted income.

I. Proposed effective date of the new lease or actual effective date of the lease renewal.

5. Application of Approved Exception Payment Standard. Exception payment standards may remain in effect until or unless a higher exception payment standard is warranted, requested, and subsequently approved.

6. Headquarters Review. The regulatory waiver process in Public and Indian Housing requires PHAs to first send their request to the appropriate field office; the field office then forwards the waiver request to the appropriate program office at HUD Headquarters along with a field office recommendation (See PIH Notice 2009-41).

7. Information Contact. Inquiries about this notice should also be directed to Ms. Smelkinson, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at (202) 402-4138 or by email at Phyllis.A.Smelkinson@hud.gov.

8. Paperwork Reduction Act. The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The following active information collections contained in this notice have been approved under the PRA - OMB Control Number 2577-0169.

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing

Attachment

EXAMPLE CALCULATION PROCESS

Fair Market Rent for Unit Size	$1,041
Family's monthly adjusted income:	823
30% of monthly adjusted income:	247
40% of monthly adjusted income	329
Difference between 30% and 40%:	82
Contract Rent	1,505
Utility Allowance	40
Gross Rent	1,545
Adjusted Gross Rent (1,545 – 82)	1,463
Percentage of FMR (1,463/1,041)	141%

Exhibit EE

2025 HUD Inflation-Adjusted Values (Table 1): Effective January 1, 2025

Note: If your agency/property/program administrator is not yet complying with Sections 102 and 104 of HOTMA, you will not utilize this table. Annual inflationary adjustments, the new thresholds (e.g., asset limitation), and the requirement to use this passbook rate are among the provisions of Sections 102 and 104 of HOTMA.

Calculation Component	Adjusted Item	Regulatory Reference	Amount	Applicable Programs[1]
Asset Limitation	Eligibility restriction on net family assets	24 CFR § 5.618(a)(1)(i)	$103,200	Section 8 PBRA, 202/8, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA
Annual Income	Threshold above which imputed returns must be calculated on net family assets	24 CFR §§ 5.609(a)(2) and (b)(1)	$51,600	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
	Threshold above which the total value of non-necessary personal property is included in net family assets	24 CFR § 5.603(b) Definition *Net family assets*	$51,600	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
	The amount of net assets for which the PHA/MFH Owner/Grantee may accept self-certification by the family	24 CFR § 5.618(b)(1) 24 CFR § 5.659(e) 24 CFR § 92.203(e)(1) 24 CFR § 93.151(e)(1) 24 CFR § 882.515(a) 24 CFR § 882.808(i)(1) 24 CFR § 960.259(c)(2) 24 CFR § 982.516(a)(3)	$51,600	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF

[1] Some components in Tables 1 & 2 may also apply to other HUD programs not listed here that use the definitions of annual income and adjusted income in 24 CFR Part 5, subpart F to determine eligibility or assistance levels.

Calculation Component	Adjusted Item	Regulatory Reference	Amount	Applicable Programs[1]
Annual Income	Income exclusion for earned income of dependent full-time students	24 CFR § 5.609(b)(14)	$480	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
	Income exclusion for adoption assistance payments	24 CFR § 5.609(b)(15)	$480	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
Adjusted Income	Mandatory deduction for elderly and disabled families	24 CFR § 5.611(a)(2)	$525	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME
	Mandatory deduction for a dependent	24 CFR § 5.611(a)(1)	$480	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME

2025 HUD Passbook Savings Rate (Table 2): Effective January 1, 2025

Adjusted Item	Regulatory Reference	Rate	Applicable Programs
Passbook Savings Rate	24 CFR 5.609(a)	0.45%	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF

Exhibit FF

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Directors of HUD Regional and Field Offices of Public Housing;
Agencies that Administer the Housing Choice Voucher (HCV) Program

Notice PIH 2025-08

Issued: April 9, 2025

Expires: This notice remains in effect until amended, superseded, or rescinded.

Cross References: Notice PIH 2023-04.

Subject: Statutory and Regulatory Waivers for Family Unification Program (FUP) and Foster Youth to Independence (FYI) Vouchers

1. Purpose

Pursuant to the Consolidated Appropriations Act, 2024 (Public Law 118-42), this notice establishes both mandatory and optional waivers, and alternative requirements for the Family Unification Program (FUP) and Foster Youth to Independence (FYI) vouchers.

2. Background

The Consolidated Appropriations Act, 2024 (Public Law 118-42) ("2024 Act") authorized the Department of Housing and Urban Development (HUD) to establish waivers and alternative requirements for FUP and FYI vouchers that are necessary for the effective delivery and administration of funds. Per section 243 of the 2024 Act, HUD may waive or specify alternative requirements for Section 8(o)(6)(A) of the United States Housing Act of 1937 (1937 Act) (42 U.S.C. 1437f(o)(6)(A)) and regulatory provisions related to the administration of waiting lists, local preferences, and the initial term and extensions of tenant-based vouchers. Additionally, HUD may also waive or specify alternative requirements for Section 8(x)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)(2)) regarding the timing of referral of youth[1] leaving foster care. HUD is not permitted to waive requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards, and the environment.

FUP vouchers are special purpose vouchers for the following two populations:

a. Families for whom the lack of adequate housing is a primary factor in:

---

[1] Throughout this notice, the term youth refers to young adults (including pregnant and parenting youth) who are age-eligible for FUPY or FYI.

i. The imminent placement of the family's child or children in out-of-home care, or
ii. The delay in the discharge of the child or children to the family from out-of-home care.

b. Youth who have attained at least 18 years and not more than 24 years of age (i.e., have not reached their 25th birthday) and who have left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, and are homeless or are at risk of becoming homeless at age 16 or older.

FUP vouchers issued to families are known as FUPF, while FUP vouchers issued to youth are known as FUPY. FYI was created in 2019 to provide additional resources and assistance for otherwise FUP-eligible youth. As a result, FUPY and FYI vouchers serve the same youth population identified above in Section 2.b. FUPF, FUPY and FYI are also special program codes used when reporting on line 2n of the Family Report (Form HUD-50058).

FUP and FYI vouchers are subject to the requirements in Section 8(x) of the 1937 Act and Title 24 Code of Federal Regulations (CFR) 982, 983 (as applicable) for Project-based voucher (PBV) units and the Fostering Stable Housing Opportunities (FSHO) Amendments Federal Register (FR) Notice except as provided in this notice and any subsequent notice issued by HUD.[2]

Public Housing Agencies (PHAs) administer the FUP and FYI programs in partnership with Public Child Welfare Agencies (PCWAs). The PCWA certifies that a family or youth meets the eligibility requirements in Section 8(x) of the 1937 Act and refers the family or youth to the PHA. The PHA receives the referral and determines whether the family or youth meets HCV program eligibility requirements. The PHA conducts all other processes relating to voucher issuance and administration. Referrals may also be received from other agencies such as the Continuum of Care (CoC), or a State, local, educational, philanthropic, or faith-based organization. In cases where the referral comes from a third-party partner, the PCWA and PHA will still be responsible for determining eligibility as outlined above, including the PCWA's written certification that the youth is eligible.

The alternative requirements and optional waivers described below are intended to provide programmatic flexibilities to help FUP and FYI voucher holders lease up and maintain stable housing. These flexibilities will increase opportunities for FUP and FYI voucher holders to secure a decent and safe unit by reducing barriers and challenges

---

[2] FUP and FYI vouchers can be project-based under section 8(o)(13) of the 1937 Act. If these vouchers are project-based, the requirements in 24 CFR part 983 apply, except to the extent that PBV requirements are modified by the waivers or alternative requirements in this notice or any subsequent notice issued by HUD.

when searching for a unit. More importantly, they will help FUPY and FYI-eligible youth lease a unit before reaching their 25th birthday and aging out of eligibility for the program.

3. **Applicability**

The waivers and alternative requirements listed below are applicable to all PHAs awarded FUP and FYI vouchers and PHAs that administer FUP and/or FYI vouchers through a portability billing arrangement.

Moving to Work (MTW) agencies may not apply any flexibilities that are inconsistent with the alternative requirements described in Section 6 below.

4. **Effective Date**

This notice is effective upon publication.

5. **Compliance Date**

PHAs must adopt the mandatory alternative requirements described in Section 6 within 120 days from publication of this notice.

6. **Mandatory Program Policies.** This section describes the mandatory waivers and alternative requirements that HUD is establishing for FUP and FYI vouchers. A summary of the mandatory waivers and alternative requirements is included in Attachment I at the end of this notice.

   a. **Timing of Referral of Youth Leaving Foster Care.** HUD is waiving Section 8(x)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)(2)), which allows in part, for otherwise eligible youth to be referred if they will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act. HUD is establishing an alternative requirement to ensure otherwise eligible youth to be referred when leaving foster care within 180 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act. This alternative requirement will allow more time for the youth to find housing with a FUPY or FYI voucher and prevent the youth from entering into homelessness.

   HUD recognizes that a longer referral timeframe may increase the likelihood that a youth lease a unit prior to their exit from foster care. A FUPY or FYI youth may lease a unit prior to officially leaving foster care in order to ensure a smooth transition from foster care to independence, as long as all requirements of the FUP and FYI programs and HCV program are met. Please note that while a youth may be referred for a FUPY or FYI voucher before reaching the age of 18, the PHA must not enter into a HAP contract on behalf of the youth until the youth reaches the age of 18. Further, the FUP and FYI programs are subject to the prohibition of a family

receiving "any other duplicative federal, State, or local housing subsidy, as determined by HUD" so any arrangements made to help the youth secure a unit and avoid any lapse in housing must be consistent with that requirement (24 CFR 982.352(c)(12)) and state law regarding the provision of foster care.

b. **Initial Search Term.** HUD is waiving 24 CFR 982.303(a) and 24 CFR 982 subpart H, which requires an initial search term of at least 60 days which also applies to a participant's request to move to a new unit. HUD is establishing an alternative requirement that the initial search term for FUP and FYI vouchers must be at least 120 days from the date the voucher is issued. The initial 120-day term also applies when a family or youth chooses to move to a new unit with continued assistance inside or outside the PHA's jurisdiction. Many FUP and FYI applicants face challenges in their housing search. On average, national voucher median search times indicate that FUP and FYI applicants take longer to lease than other HCV applicants. The lack of available affordable housing coupled with the challenges in finding units and navigating the leasing process, especially for youth, experiencing or at risk of homelessness, may require applicants to need additional time to search for a suitable unit. Families may also experience additional delays due to finding a location that is close to schools, transportation, services, and other family factors.

   When issuing a FUP and/or FYI voucher to a family which includes an individual with disabilities, PHAs also must include a current listing of available accessible units known to the PHA, and if necessary, otherwise assist the family in locating an available accessible dwelling unit (24 CFR 8.28(a)(3)). In HUD's past FUP and FYI Notices of Funding Availability/Opportunity (NOFA/NOFO), HUD stressed the importance of housing search assistance for families and youth, as applicable, in the form of landlord introductions, neighborhood tours and unit viewings, as best practices to help youth and families quickly find housing that will meet their needs.

c. **Extensions of Term.** HUD is waiving 24 CFR 982.303(b)(1), which at its discretion, the PHA may grant a family one or more extensions of the initial voucher term in accordance with PHA policy as described in the PHA Administrative Plan. Any extension of the term is granted by PHA notice to the family. HUD is establishing an alternative requirement for the process of requesting search extensions. Given the challenges FUP and FYI applicants may face in securing a unit, applicants should be provided with flexible extension policies. PHAs must adopt an extension policy for FUP and FYI applicants that includes the following: 1) each extension must be for a minimum of 90 days, 2) the PHA must approve the first extension request, regardless of how the request is made (written or oral) or when it is made, as long as the request is made on or before the term expiration date and is consistent with applicable requirements; subsequent requests should be processed in accordance with the PHA's administrative plan; and 3) the PHA must, on at least one occasion after voucher issuance, notify the applicant prior to the initial term expiration, to remind them of about the term expiration date and the process for requesting an extension of the initial term, and to inquire if the applicant is in need of assistance with their housing search.

The PHA's administrative plan must describe its policies for granting extensions of the initial 120-day term (24 CFR 982.303(b)(1)) and provide clear instructions to the family and/or youth on the procedures for requesting an extension. Median days from issuance to lease up for both FUP and FYI is longer than for other HCV families. As discussed above in Section 6(b), multiple circumstances may contribute to the barriers that FUP and FYI applicants experience in successfully leasing.

PHAs are encouraged to remind FUP and FYI applicants of the housing search assistance that is available to them as set forth in their partnership agreements (Memoranda of Understanding (MOUs) and letters of intent (LOIs)) with the PCWA and, as applicable, other third-party entities. PHAs should be aware that the applicant may require more than the minimum required initial extension to successfully lease up and must grant additional extensions, if requested, in accordance with the PHA's administrative plan.

As part of its search extension policy, PHAs may not restrict a first extension approval to certain circumstances or require documentation from applicants. For all extension requests, written or oral request is sufficient. Note that this alternative requirement also applies to current FUP and FYI participants who choose to move to a new unit with continued assistance inside or outside the PHA's jurisdiction, in accordance with 24 CFR 982 subpart H.

While HUD is establishing an alternative requirement to 24 CFR 982.303(b)(1), HUD reminds PHAs that if a family or youth with a disability requires additional time to search for their unit, 24 CFR 982.303(b)(2) requires PHAs to provide an extension as a reasonable accommodation and PHAs must provide this information during the family briefing (24 CFR 982.301(a)).

d. **Residency Preference**. HUD is waiving Section 8(o)(6)(A) of the 1937 Act and 24 CFR 982.207(b)(1), which establishes a residency preference for admission of persons who reside in a specified geographic area. HUD is establishing an alternative requirement under which a PHA cannot apply a residency preference to FUP or FYI applicants. FUP and FYI vouchers are intended to facilitate access to housing for individuals with a lack of adequate housing or at risk of or experiencing homelessness, including but not limited to those who are transitioning from foster care, a residency preference may prevent an otherwise eligible applicant from accessing FUP or FYI vouchers.

7. **Discretionary Program Policies.** This section describes the optional waivers that HUD is establishing for FUP and FYI vouchers to better assist FUP and FYI participants. PHAs may choose, but are not required, to adopt any of the optional waivers set forth below. PHAs that choose to adopt any of the following optional waivers must describe those policies in their administrative plan (24 CFR 982.54(d)(1)). A summary of the optional waivers is included in Attachment I at the end of this notice.

   a. **Waiting Lists.** HCV regulations require PHAs to use a single waiting list for

admission to its Section 8 tenant-based assistance program. Accordingly, PHAs select FUP and FYI applicants from their HCV waiting list (24 CFR 982.204(f)). The PHA, upon receipt of a referral(s) from the PCWA of an eligible family or youth, must compare the name(s) with families and youth already on the PHA's HCV waiting list. Any family or youth on the PHA's HCV waiting list that matches with the PCWA's referral must be assisted in order of their position on the waiting list in accordance with PHA admission policies. Any family or youth certified by the PCWA as eligible and not on the HCV waiting list must be placed on the waiting list (pending HCV eligibility determination).

To enable PHAs to more effectively allocate FUP and FYI vouchers, HUD is waiving 24 CFR 982.204(f) and establishing an optional waiver to allow PHAs to maintain a separate waiting list for FUP and FYI vouchers. If a PHA chooses to establish a separate FUP and FYI waiting list, it must also place all FUP and FYI applicants on its regular HCV waiting list to the separate FUP and FYI waiting list in accordance with their respective position on the regular HCV waiting list. A PHA should be able to identify all of the FUP and FYI applicants on its regular HCV waiting list, since the PHA must receive a referral[3] and/or certification of eligible FUP or FYI status from the PCWA for each applicant. However, the PHA is encouraged to reach out to its partnering PCWA to verify that its list of FUP and FYI applicants is complete and accurate in accordance with their records. FUP and FYI applicants will not lose their position on the general HCV waiting list even though they will now also be placed on the separate FUP/FYI waiting list.

PHAs must establish their own policies regarding whether to remove the applicant from the general HCV waiting list upon being issued a FUP/FYI voucher. PHAs should inform a youth, before choosing to receive a FUP or FYI voucher, of the time-limited nature of the voucher assistance and whether the youth will be able to remain on the general HCV waiting list. For example, due to the time-limited nature of FUP/FYI assistance, PHAs may wish to keep the FYI or FUP youth on the general HCV waiting list upon being issued a FUP/FYI voucher, in accordance with their own Administrative Plan. This enables a youth with a FYI voucher to remain on the general waiting list and be selected for a regular HCV upon expiration of the 36-month limit or the expiration of the maximum extension of assistance that the youth is entitled to in accordance with the Fostering Stable Housing Opportunities (FSHO) amendments.

i. **Notification of Separate FUP/FYI Waiting List**
If a PHA chooses to create a separate FUP and FYI waiting list, the PHA must ensure that all families on its HCV waiting list are informed of the separate

[3] A referral may also come from agencies other than the PCWA. In cases where a referral comes from another organization in the community, the PCWA must certify that the youth meets the eligibility requirements under the notice, unless the PCWA has vested another organization with this authority.

FUP and FYI waiting list and also have an opportunity to be placed on the list should the partnering PCWA certify to their eligibility for these special purpose vouchers. PHAs must also inform individuals on the HCV waiting list of the separate FUP and FYI waiting list by either posting the information to their website or providing public notice in their communities.

PHAs must ensure effective communication of notice is provided by taking a combination of actions, which may include:

- ensuring outreach to organizations serving youth, families, and other service organizations so there is widespread awareness of the availability of a separate waiting list and how to access this resource;
- providing information on social media sites; and
- other communication methods.

While the PHA will already know about FUP or FYI-eligible families because of the required certification/referral process, this notice will ensure that if there are any other applicants on the general HCV waiting list that would also qualify, that they are made aware of and have an opportunity to be placed onto the separate waiting list. When providing notice, the PHA must describe the eligibility criteria for FUP and FYI vouchers and describe the actions an individual should take to be added to the FUP and FYI waiting list. The PHA notice should also make clear to applicants that if they decide to be included on the FUP and FYI waiting list, they will not lose their position on the HCV waiting list.

PHAs must allow sufficient time for the communication of notice described above before issuing vouchers from the separate FUP and FYI waiting list. In the interim, PHAs may continue to use their HCV waitlist for issuing FUP and FYI vouchers.

ii. FUP/FYI Waiting List Selection

If a PHA chooses to create a separate FUP and FYI waiting list, PHAs may use date and time of application in selecting an applicant from the FUP and FYI waiting list among applicants with the same preference status in accordance with the PHA's administrative plan. Alternatively, a drawing or other random choice technique may be used, when determination of the date and time cannot be established between applicants with the same preferences, that both qualify to be selected next from the waiting list. For PHAs that rely on the date and time of application in determining the order in which an applicant is selected from the FUP and FYI waiting list, HUD is waiving 982.207(c)(1) and establishing as an alternative requirement that the application date and time of the applicant's prior HCV application must be used for those FUP and FYI applicants that are already on the HCV waiting list. For example, if the PHA uses the date of application to determine the

order of selection for applicants who qualify for the same FUP and FYI waiting list local preference, the date used to determine an applicant's place on the waiting list compared to other applicants who qualify for that preference is the date of their application for the HCV program. However, the order in which an applicant may be reached on the FUP and FYI waiting list compared to the regular HCV waiting list may be different depending on the local preferences the PHA establishes for the FUP and FYI waiting list.

Selection from the separate FUP and FYI waiting list will be in accordance with local nondiscriminatory preferences that the PHA establishes for FUP and FYI applicants. This may result in the selection of an applicant from the FUP and FYI waiting list who was not previously on the HCV waiting list ahead of those who were on the HCV waiting list based on the applicant's eligibility for a FUP and FYI waiting list preference.

b. **Local Preferences**. While PHAs may establish local preferences based on local housing needs and priorities (24 CFR 982.207(a)), HCV regulations do not permit PHAs to establish separate preferences for FUP and FYI applicants. Preferences apply to all applicants on the waiting list. HUD is waiving 24 CFR 982.207(a)(1) and establishing an optional waiver permitting PHAs to establish separate preferences for FUP and FYI applicants. PHAs must ensure that their system of local preferences and processes for accepting referrals from partners does not violate nondiscrimination requirements under any applicable federal civil rights law, including but not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, Americans with Disabilities Act, and the Age Discrimination Act.

8. **Existing FYI Non-Competitive Requirements.** As a reminder, PHAs must continue to follow the requirements in the FYI Non-Competitive Notices. PHAs which have been awarded non-competitive FYI vouchers may wish to consider these requirements on selections and admissions when considering whether to implement discretionary program policy flexibilities related to waiting list administration.

   The 2024 Act and prior appropriations acts[4] specified that FYI vouchers allocated through the non-competitive process must be used to assist eligible youth who have been identified and on whose behalf the assistance was requested. The FYI non-competitive notices[5] required that a PHA must have received a referral of an eligible youth from the partnering PCWA before it could request an FYI voucher and that it must identify the eligible youth by code, alias, initials, or full name in its request to HUD.

   The intent of the FYI non-competitive process is to make FYI vouchers available to

---

[4] The Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94), the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), the Consolidated Appropriations Act, 2022 (Pub. L. 117-103), and the Consolidated Appropriations Act, 2023 (Pub. L. 117-328).
[5] Notices PIH 2020-28, PIH 2021-26, and PIH 2023-04.

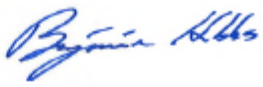
eligible youth on an on-demand basis. Therefore, the eligible youth on whose behalf the FYI voucher was requested must be selected from the waiting list for that specific voucher. This requirement only applies to the initial issuance of an FYI voucher allocated through the non-competitive process. The FYI voucher must be issued to another eligible youth upon turnover, including in instances where the youth on whose behalf the voucher was requested does not lease with the FYI voucher.

9. **Reasonable Accommodations and Effective Communication**. As a reminder, PHAs administering FUP and/or FYI vouchers and landlords receiving FUP and/or FYI vouchers may need to provide various reasonable accommodations for individuals with disabilities to ensure program access. HUD also reminds PHAs that all materials, notices, and communication to families regarding the use of the waiver authorities must be provided in a manner that is effective for persons with disabilities. This includes, but is not limited to, the notice regarding the expiration date and extension request process.

10. **Limited English Proficiency.** As a reminder, PHAs must take reasonable steps to ensure meaningful access to their programs and activities to Limited English Proficient (LEP) individuals. As an aid to recipients, HUD published Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance) in the Federal Register on January 22, 2007 (72 FR 2732). LEP guidance and information is available here: https://www.federalregister.gov/documents/2007/01/22/07-217/final-guidance-to-federalfinancial-assistance-recipients-regarding-title-vi-prohibition-against.

11. **Information Contact.** Inquiries about this notice should be directed to FUPVouchers@hud.gov with subject field entitled "Flexibilities Notice."

12. **Paperwork Reduction Act.** The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection displays a currently valid OMB control number. The active information collections contained in this notice have been approved under the PRA OMB Control Number 2577-0169.



Benjamin R. Hobbs
Principal Deputy Assistant Secretary
Public and Indian Housing

Exhibit GG

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Public Housing Directors;
Regional Public Housing Directors;
Public Housing Agencies

Notice PIH 2025-19

Issued: June 20, 2025

Expires: This notice remains in effect until amended, superseded, or rescinded.

Cross References: Notice PIH 2025-07; Notice PIH 2021-15; Notice PIH 2021-20

Subject: Guidance on Transitioning EHV Families into HCV and End of EHV Services Fee Expenditure

1. Purpose

This notice provides guidance to Public Housing Agencies (PHAs) on how to transition Emergency Housing Voucher (EHV) families into its Housing Choice Voucher (HCV) program. PHAs may elect to transition EHV families into the HCV program so that EHV families do not experience a loss or gap in housing assistance and can remain in their assisted units. Further, this notice informs PHAs that they may no longer expend services fees beginning 60 calendar days from the publication of this notice and that they must complete all remaining services fee expenditure reporting in the Voucher Management System (VMS) 120 days from the publication of this notice.

2. Background

EHVs are tenant-based rental assistance under Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).[1] Eligibility for EHVs is limited to individuals and families who are (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

The ARP made EHV funds available for obligation by HUD until September 30, 2030, and those funds will be cancelled as a matter of law effective September 30, 2035. However, due to historic increases in rental prices resulting in a higher per unit cost

[1] Section 3202 of the American Rescue Plan Act of 2021 (P.L. 117-2, hereafter referred to in this notice as "the ARP") appropriated $5 billion for new incremental EHVs as part of the response to the impact of the COVID-19 pandemic.

(PUC) for EHVs, HUD estimates that the Department will only have sufficient funds to cover all EHV families through most of Calendar Year (CY) 2026.

In March 2025, HUD published Notice PIH 2025-07, which directed PHAs to stop issuing any new EHVs after 14 calendar days and reminded PHAs that any incoming EHV ports must be billed to the initial PHA. Additionally, HUD obligated all remaining EHV funding to PHAs. Through this notice, HUD is encouraging PHAs to begin planning for the wind-down of the EHV program as the funding for the program is likely to be expended by the end of CY 2026. PHAs are advised to consider planning a careful transition of families, which may include transitioning families into the PHA's HCV program, in accordance with this notice. PHAs opting to take this action must follow the procedures described in Section 3 of this notice for adopting a preference for EHV families if the PHA has not already adopted such a preference.

When allocating EHVs to PHAs in 2021, HUD also awarded $245 million in services fees to help facilitate the leasing of EHVs as well as retain and support participating EHV owners. Eligible expenses for services fees, as described in Notice PIH 2023-23, fall into four categories: (1) housing search assistance; (2) security deposit, utility deposit, rental application, and holding fees; (3) owner-related uses; and (4) other eligible uses. HUD expanded the use of services fees in 2023 to provide more opportunities for PHAs to use the fees to support currently housed EHV families. Future guidance on returning unexpended service fees and reallocation is forthcoming.

3. Transitioning EHV Families into the HCV Program

HUD strongly encourages PHAs to transition EHV families to the HCV program so that EHV families do not lose assistance and potentially face homelessness. PHAs that choose this option should provide clear information to EHV families about the process for applying to the HCV waiting list under an EHV preference, the status of EHV funding, and why the PHA is adopting an EHV preference. PHA communication to EHV families should also clearly explain that choosing to apply and be transitioned to the HCV program is optional for the family. Further, communication to families should explain the potential consequences of remaining on EHV assistance, including the risk of termination of assistance due to lack of permanent EHV funding.

In transitioning a family into HCV, a PHA is making assistance payments with funding under its consolidated HCV Annual Contributions Contract (24 CFR 982.4(b)). In order to transition EHV families into its HCV program, the PHA must have HCV unit-months available to use for EHV families. The prohibition on HCV over-leasing as described in Section IV.F.3 of Notice PIH 2025-13 applies. Information on EHV waivers (which do not apply to HCV) and transitioning families to the HCV program follows in subsection c. below.

PHAs are reminded that EHV funding cannot be used for regular HCV Housing Assistance Payment (HAP) costs, even for former EHV families, once the EHV family has been transitioned to the regular HCV program.

PHAs should consider using HUD's Two-Year Tool (TYT) to help them determine how many EHV families may remain in their program towards the end of CY 2026. Because the amount of remaining EHV funding is known and not subject to annual appropriations, there are fewer unknown variables and PHAs can use PUC trends and attrition rates to estimate the number of families that may need to be transitioned to HCV.

a. Waiting Lists

In order to transition EHV families into the PHA's regular HCV program, the family must be selected through the PHA's HCV waiting list as required by 24 CFR 982.204(a). PHAs that currently have an open waiting list should take the following steps:

- Determine if establishing a waiting list preference constitutes a significant amendment to its PHA Plan (24 CFR 903.21).
- If the PHA determines that establishing a waiting list preference constitutes a significant amendment, complete the process for updating the PHA Plan (24 CFR 903.17). PHAs must provide a public comment period, which is a statutory requirement that cannot be waived by HUD.
- Complete the process for updating the administrative plan (24 CFR 982.54). Per 24 CFR 982.54(a), revisions to the administrative plan must be formally adopted by the PHA's Board of Commissioners or other authorized PHA officials.

PHAs with a currently closed HCV waiting list who opt to transition EHV families may choose to open their waiting list only for families that qualify for an EHV preference. In this case, the PHA must include the preference in its administrative plan (24 CFR 982.54(d)(1)).

b. Preferences

PHAs may establish a local preference based on local housing needs and priorities as determined by the PHA (24 CFR 982.207(a)(2)), and this may include families participating in EHV. PHAs that want to transition EHV families into the HCV program should structure the preference in a way that provides clarity that only current EHV participants are eligible for the preference. For example, the preference could state that it is for currently assisted EHV families whose assistance is at risk of termination due to lack of program funding.

There are multiple methods that PHAs may use to apply preferences, including lumping, aggregating, and ranking. PHAs have discretion to apply preferences through several methods, provided that the selected methods comply with fair housing and civil rights requirements. In establishing an EHV preference, PHAs will need to consider how the preference method(s) they currently employ will impact the desired goal of moving EHV families to the top of the PHA's waiting list to expediently transition EHV families. There are no priority preferences with lumping or aggregating methods, but PHAs can use a ranking method to weigh an EHV preference above all other existing preferences.

Some PHAs may only have available HCVs to transition a portion of their EHV families. PHAs in this situation may want to consider adopting multiple EHV preferences to first prioritize the most vulnerable households. For example, PHAs could adopt a preference for EHV families with a head of household, spouse, or co-head who is elderly or disabled, and a second preference for all other EHV families. In designing preferences, PHAs are reminded that all preferences must be consistent with fair housing and civil rights laws.

PHAs with Mainstream vouchers available may consider adopting a preference for EHV families that meet Mainstream eligibility requirements. To transition families into Mainstream, families must be Mainstream-eligible, and the family must be properly added to the waiting list consistent with statutory, regulatory, and other requirements.[2] This option does not apply to Special Purpose Voucher (SPV) programs other than Mainstream. These SPV programs have statutory eligibility requirements that EHV families cannot meet and/or involve partnerships that require the PHA to receive referrals from certain sources (i.e., the Family Unification Program, Foster Youth to Independence, HUD-Veterans Affairs Supportive Housing, and Stability Vouchers). Per Section IV.E.1 of Notice PIH 2025-13, the same prohibition on over-leasing applies for Mainstream.

Once the PHA has adopted its EHV preference(s), the PHA should ensure effective communication of notice to all EHV families about the new preference and the opportunity to apply for the HCV program under the preference. PHAs should provide a reasonable amount of time to EHV families to apply for the HCV program before selecting any EHV families from their HCV waiting list. As an alternative to only accepting individual applications from EHV families, HUD is providing a streamlined submission and review process for a regulatory waiver that, if approved, would permit PHAs to place all EHV families on its HCV waiting list with the appropriate preference.

To ensure streamlined processing, PHAs must submit their waiver request in DocuSign. PHAs must provide certain information within the waiver request document, including:

- PHA name, code, and business address
- Name and email for the PHA point of contact
- A PHA-specific justification for the waiver that shows good cause. The good cause justification must include: 1) why the PHA needs the waiver, and 2) the impact on PHA operations and applicants if the waiver is not provided.

Following submission, PIH will reply via email confirming that the request has been received. Once a final determination for approval by the Assistant Secretary has been made, PHAs will receive the signed response to the waiver request via email. No waiver requested may be implemented unless written approval from HUD has been obtained.

[2] Notice PIH 2024-30, *Statutory and Regulatory Waivers for Mainstream Vouchers*, for mandatory and optional waivers and alternative requirements related to waiting lists in the Mainstream program.

c. *EHV waivers and alternative requirements*

PHAs are reminded that the EHV waivers and alternative requirements outlined in Notice PIH 2021-15 do not apply to their HCV program. However, as discussed below, families that were properly admitted to the EHV program and are currently receiving EHV assistance are participants under a section 8(o) tenant-based voucher program. This section discusses the requirements that apply (particularly with respect to criminal screening and income) when a PHA is transitioning a family from EHV to HCV assistance. In addition, this section reviews EHV waivers that PHAs may have opted to use and the existing flexibilities available to PHAs in lieu of those waivers to minimize disruption to EHV families.

Criminal Rescreening. Families that were properly admitted to the EHV program by PHAs in full compliance with the requirements of Notice PIH 2021-15 and are currently receiving EHV assistance are participants under a section 8(o) tenant-based voucher program. Therefore, applicant screening requirements do not apply when the PHA is transitioning a family from EHV to HCV assistance. All HCV requirements with respect to termination of assistance for participants apply to EHV families when they are transitioned to HCV assistance.

Income Eligibility and Targeting. Families that were properly admitted to the EHV program by PHAs in full compliance with the requirements of Notice PIH 2021-15 and are currently receiving EHV assistance are participants under a section 8(o) tenant-based voucher program. Therefore, the income-eligibility and targeting requirements in 24 CFR 982.201, which apply to applicants, do not apply in cases where the PHA is transitioning a family from EHV to HCV assistance. All HCV requirements with respect to participant family income and composition (particularly, 24 CFR 982.516) apply to EHV families when they are transitioned to HCV assistance.

Social Security Number and Citizenship Verification. In Section 9(i) of Notice PIH 2021-15, HUD waived the requirement to obtain and verify documentation of social security number (SSN) and eligible noncitizen status (if applicable) before admitting families to EHV. HUD established an alternative requirement that individuals must provide the required documentation within 180 days of admission to remain eligible for continued assistance, pending verification, unless the PHA provided an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

A PHA may not transition a family from the EHV program to the HCV program until it verifies documentation of SSN and eligible noncitizen status. The EHV alternative requirement in this section does not apply to HCV program.

Payment Standards and Rent Reasonableness. To increase housing choice for EHV families, section (9)(p) of Notice PIH 2021-15 waived 24 CFR 982.503(a)(3), allowing PHAs to set separate, higher payment standards for EHV. PHAs were permitted to establish EHV payment standards up to 120 percent of Fair Market Rent (FMR) without HUD approval.

PHAs that chose to set higher payment standards for EHV may want to consider two options to minimize harm to families: (1) If the EHV payment standards are above 110 percent and up to 120 percent of applicable FMR, the PHA could align both programs' payment standards by using the simplified process described in Section 5B of Notice PIH 2024-34, or (2) the PHA could hold families harmless and choose not to reduce the payment standard amount used to calculate the subsidy for a family as long as they continue to reside in the same unit (see Section 10 of Notice PIH 2024-34).

PHAs should note that the requirement limiting the family share to 40 percent or less of monthly adjusted income at initial occupancy (24 CFR 982.508) does not apply if the family is leasing in place.

d. HAP Contract and Tenancy Addendum

As tenant-based assistance under section 8(o) of the United States Housing Act of 1937, EHV uses the same HAP contract (HUD-52641) and tenancy addendum as the regular HCV program. When transitioning an EHV family to HCV, PHAs are not required to execute a new HAP contract or tenancy addendum for the family provided that the family is remaining in the same unit.

e. PIC Reporting

When admitting an EHV family from the HCV waiting list, the family should be coded on line 2n of the HUD-50058 as "EHCV." Moving to Work (MTW) PHAs should code the family on line 2p as "EHCV" on the HUD-50058 MTW and leave 2n blank. HUD will use this code to track the number of EHV families admitted to HCV but also to award the $1,000 fee per EHV family that is successfully transitioned to the regular HCV program, as described in Notice PIH 2025-13. PHAs will not receive the fee for transitioning EHV families if they fail to code the family as "EHCV" on line 2n or 2p for MTW PHAs. When a family transitions to HCV and remains in their unit, PHAs should not use action code 6 ("End Participation") but instead use action code 3 ("Interim Reexamination"). If the family is not leasing in place, PHAs must use action code 7 ("Other change in unit").

4. Services Fees

PHAs have 60 calendar days from the date of the publication of this notice to use services fees on eligible expenses, and an additional 60 calendar days from the date of the publication of this notice to complete services fees VMS reporting. PHAs should review

Notice PIH 2023-23 that describes the eligible uses of services fees. PHAs will be required to repay any disallowed costs if services fees are used for ineligible expenses.

HUD will describe the process for recapture and reallocation of services fees in a separate, future notice.

5. **Information Contact.** Inquiries about this notice should be directed to ehv@hud.gov.

6. **Paperwork Reduction Act.** The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection displays a currently valid OMB control number. The active information collections contained in this notice have been approved under the PRA OMB Control Number 2577-0169.



Benjamin Hobbs
Principal Deputy Assistant Secretary
Office of Public and Indian Housing

Guidance on Transitioning EHV Families into HCV

In accordance with HUD Notice PIH 2025-19, Dallas County Health and Human Services (DCHHS) is adopting a local preference to assist currently housed Emergency Housing Voucher (EHV) families who are at risk of losing their housing assistance due to the wind-down of EHV funding.

The percentage allocation of turnover vouchers is based on key factors, including the limited number of available Housing Choice Vouchers, the total number of EHV clients requiring transition, and the timeline established by HUD to complete the transition before EHV funding sunsets.

This preference is limited to:

- Individuals and families currently assisted under the EHV program.
- Those who were properly admitted into the program under Notice PIH 2021-15; and
- Those who meet all eligibility requirements for participation in the Housing Choice Voucher (HCV) Program, including required documentation and verification.

DCHHS may prioritize EHV households that include elderly persons, individuals with disabilities, or families with young children. In addition, priority may be given based on the order in which completed applications and required documentation are received by DCHHS. Eligible EHV families will be notified in writing and given the opportunity to apply under this preference before any new applicants are selected from the HCV waiting list.

Given the limited number of Housing Choice Vouchers available through turnover, DCHHS will implement a phased transition plan. To balance competing priorities, the following voucher allocation strategy will apply:

- **Sixty percent (60%)** of monthly available vouchers will be designated for the transition of eligible EHV families.
- **Forty percent (40%)** of monthly available vouchers will be allocated to Permanent Supportive Housing (PSH) referrals under the existing MOU with Housing Forward until all EHV participants have been successfully transitioned into the HCV Program.

Upon completion of the EHV transition, 100% of available voucher allocations will be directed toward fulfilling the contracted PSH commitment. Any remaining available vouchers beyond that commitment will then be allocated to applicants on the current HCVP waiting list.

This plan provides a balanced, compliant, and strategic approach to utilizing limited HCV resources by prioritizing EHV transitions and honoring PSH commitments, while promoting housing stability for vulnerable households and remaining responsive to HUD guidance and local needs.

DRAFT

Attachment I

Mainstream Voucher Waivers and Alternative Requirements

Item	Statutory or Regulatory	Brief Summary	Mandatory Use	Alternative Policy
Waiting Lists	24 CFR 982.204(f)	Waives the requirement that PHAs maintain one HCV waiting list.	No	PHAs may establish a waiting list separate from their HCV waiting list for Mainstream Vouchers.
Waiting Lists	24 CFR 982.207(c)(1)	Waives the requirement that date and time of application, if used by the PHA, applies only to the HCV waiting list.	No, unless establishing a separate waiting list	For PHAs that opt to establish a separate Mainstream waiting list and rely on the date and time of application method, they must rely on the date and time of application for their Mainstream waiting list as well.
Preferences	24 CFR 982.207(a)	Waives the requirement that PHAs maintain one set of HCV preferences.	No	PHAs may establish separate preferences for Mainstream Voucher applicants. PHAs that claimed points for a preference in a Notice of Funding Opportunity (NOFO) must continue to maintain a preference for at least one of the targeted groups identified in the NOFO.
Preferences	Section 8(o)(6)(A) of the United States Housing Act of 1937; 24 CFR 982.207(b)	Waives the ability for PHAs to establish a residency preference for Mainstream Voucher applicants.	Yes	A PHA may not apply any residency preference to Mainstream Voucher applicants.
Initial Search Term	24 CFR 982.303(a)	Waives the ability for PHAs to use a minimum initial search term of 60 days for Mainstream Voucher applicants.	Yes	A PHA must provide a minimum initial search term of 120 days for Mainstream Voucher applicants.

Item	Statutory or Regulatory	Brief Summary	Mandatory Use	Alternative Policy
Term Extensions	24 CFR 982.303(b)(1)	Waives the ability for PHAs to grant first extensions at its discretion.	Yes	PHAs must adopt an extension policy that includes the following features: 1) each extension must be for a minimum of 90 days, 2) the PHA must approve the first extension request, regardless of how the request is made or when it is made (written or verbal), as long as the request is made on or before the term expiration date and is consistent with applicable requirements, and 3) the PHA must, on at least one occasion after voucher issuance, notify the family prior to the initial term expiration to remind them of the term expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search.

TABLE OF CONTENTS -ATTACHMENTS

Attachment A: Topic: Asset Limitation. 293

Attachment B: Topic: Calculating Income..... 303

Attachment C: Topic: Deduction and Expenses..... 314

Attachment D: Topic: Applicable Fair Housing and Civil Rights Requirements..... 327

Attachment E Topic: Household Composition 329

Attachment F: Topic: Income 331

Attachment G: Topic: Income Exclusions..... 351

Attachment H: Topic: Inflationary Adjustments..... 371

Attachment I: Topic: Interim Reexaminations..... 373

Attachment J: Topic Verification 387

ATTACHMENT A: TOPIC: ASSET LIMITATION

Regulations

24 CFR §§ 5.100 (real property); 5.603; and 5.618

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance), Section 202/8	Section 202/162 PAC, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	No	Yes

Summary

For the Public Housing and Section 8 programs (including PBRA and HCV), PHAs/MFH Owners must deny admission of an applicant if they are determined to not meet the requirements of the asset limitation (see paragraph A.1 and A.2 below).

PHAs/MFH Owners have discretion with respect to application of the asset limitation at annual and interim reexamination, as discussed in paragraph A.3 below. For the purpose of reexaminations, paragraph A.1 does not apply to PHAs/MFH Owners who establish total nonenforcement policies as described in paragraph A.3.a of this attachment.

Subtopics

A.1 Asset Limitation

This section describes the asset limitation. The enforcement options are described in subsequent paragraphs A.2. and A.3. A family is out of compliance with the asset limitation if they have either of the following:

- **Net family assets that exceed $100,000, as adjusted annually for inflation.** See Attachment F (paragraph F.4.a) (Determining Net Family Assets) of this notice for the definition of net family assets. HUD will adjust this amount annually in accordance with the Consumer Price Index–Urban Wage Earners and Clerical Workers (CPI–W). See Attachment H (Inflationary Adjustments) of this notice for more information on inflationary adjustments. In determining whether the net family assets for a family exceed $100,000 (as adjusted for inflation), a PHA/MFH Owner may accept a declaration from the family that their net assets do not exceed $50,000 (as adjusted for inflation), without needing to further verify that declaration. See Attachment F (paragraph F.7) (Self-Certification of Net Family Assets Equal to or Less Than $50,000 (as adjusted by inflation)) of this notice. For assets disposed of for less than fair market value during the two years preceding the date of application for the program or reexamination, as applicable, the difference in value between the consideration received and the fair market value must be included in net family assets.

- **Real property that is suitable for occupancy.** Real property means "real property as provided under the State law in which the property is located."[A1] Families are out of compliance if they have a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence. However, there are several exemptions to the real property restriction, discussed below in paragraph A.4.a (Exemptions to the Real Property Restriction in the Asset Limitation). In determining whether the family owns real property that would make them out of compliance, a PHA/MFH Owner may rely upon a selfcertification, both at the time of admission and at reexamination, from the family stating that they do not have any present ownership interest in any real property. A PHA/MFH Owner could use a form that requests certification of the family's present ownership interest in the property, and also inquire about the family's legal right to reside in, and the effective legal authority to sell any real property that is suitable for occupancy by the family. If the family certifies that they do not have any present ownership interest in real property, the PHA/MFH Owner may take that as sufficient to determine the family is not out of compliance with the real property restriction. However, if the family owns real property, the PHA/MFH Owner must seek thirdparty verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

Note: Ownership of real property is relevant to the asset limitation in two distinct ways: 1) if the family has an ownership interest in real property, that interest may cause the family's net family assets to exceed $100,000 (adjusted for inflation), in which case the family is out of compliance; and 2) if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property that is suitable for occupancy by the family as a residence, then the family is out of compliance. There are several exemptions to the real property restriction at § 5.618(a)(1)(ii), discussed in paragraph A.4.a, which identify when a real property ownership interest does not by itself render the family out of compliance with the asset limitation. However, those exemptions do not indicate that such real property is excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets in the definition under § 5.603, it may be included in net family assets. If the value of that real property brings the net family assets above $100,000 (as adjusted for inflation), the family will be out of compliance.

A.2 Compliance at Admission

At admission, ownership of net family assets that exceed $100,000 (as adjusted) or ownership of disqualifying real property require denial of assistance. PHAs/MFH Owners do not have the discretion to not enforce or provide limited enforcement of the asset limitation at admission.

With respect to MFH programs only, MFH Owners must enforce the asset limitation at initial certification for families who lost their assistance because they failed to recertify

[A1] Real Property as defined in 24 CFR § 5.100.

timely or began to pay market rent, remained in the unit, and then lost income, once again requiring assistance.

Note: Families residing in units converting to Section 8 PBRA or PBV through the Rental Assistance Demonstration (RAD) may not be rescreened upon conversion pursuant to the RAD statute; therefore, RAD families converting to PBRA or PBV are not subject to the asset limitation provision **at conversion.** Instead, families residing in units converting under the First or Second Component of RAD to PBRA (including units originally assisted under the Section 202/811 PRAC program) or PBV will be subject to the PHA/MFH Owner's discretionary asset limitation policies at their next annual or interim reexamination after conversion, whichever is sooner.

A.3 PHA/MFH Owner Discretion at Annual and Interim Reexamination

PHAs/MFH Owners have discretion with respect to the application of the asset limitation at annual and interim reexamination. PHAs/MFH Owners may adopt a written policy of total non-enforcement, enforcement, or limited enforcement, as described below. They may also adopt exception policies as described in A.3.d.

Regardless of the policy they adopt, PHAs/MFH Owners must comply with federal fair housing and civil rights requirements, including reasonable accommodation requirements. This obligation applies regardless of whether PHAs/MFH Owners establish enforcement, limited enforcement, or exception policies to the asset limitation at reexamination. This may mean, for example, that a PHA/MFH Owner would be required to allow someone to cure their noncompliance or provide more time to demonstrate they have cured their noncompliance before terminating assistance if there was a nexus between the person's disability and their need to cure or their need for additional time to demonstrate they have cured their noncompliance. A reasonable accommodation could require delaying the initiation of termination or eviction proceedings for more than six months.

A.3.a Total Non-Enforcement

At annual and interim reexamination, PHAs/MFH Owners may choose not to enforce the asset limitation, if they establish a written non-enforcement policy. PHAs/MFH Owners may establish a total non-enforcement policy for all families at reexaminations, which would mean that they will not initiate termination or eviction proceedings for a family for non-compliance with the asset limitation. Where the PHA/MFH Owner exercises this discretion to allow families who would otherwise fail to comply with the asset limitation to continue renting their units, the families will continue to receive assistance. If they adopt a total nonenforcement policy, PHAs/MFH Owners must apply the non-enforcement policy the same for all families within a program (e.g., if adopted in a PHA's Admissions and Continued Occupancy Policy, it must apply to all Public Housing families). Any non-enforcement policy must be included in the PHA's Administrative Plan or ACOP or a MFH Owner's Tenant Selection Plan.

Note: PHAs/MFH Owners who adopt a total non-enforcement policy are still required to calculate net family assets in the manner required by § 5.603, as part of the process of calculating annual income in accordance with § 5.609. In the course of calculating net family assets, PHAs/MFH Owners thus still need to determine whether the family owns real property that must be included in net family assets. However, if they adopt a total non-enforcement policy, they are not required to obtain and verify additional information about owned real property strictly to determine whether it qualifies for an exemption under § 5.618 (e.g., whether owned real property is suitable for occupancy). For example, if a PHA/MFH Owner finds a family owns real property, that real property would need to be included in the calculation of net family assets unless it is specifically excluded by § 5.603, but the PHA/MFH Owner would not need to inquire whether it was suitable for occupancy.

A.3.b Enforcement

PHAs/MFH Owners may choose to enforce the asset limitation at reexamination. PHAs/MFH Owners with an enforcement policy at reexamination must initiate termination or eviction proceedings within six months of the income examination that determined the family was out of compliance. They may delay the initiation of termination or eviction proceedings for noncompliant families for up to but no longer than six months. See paragraph A.4 on the features that determine whether owned real property renders the family out of compliance with the asset limitation. See paragraph A.5 on how requirements to initiate termination or eviction proceedings vary by program.

Any enforcement policy, including the amount of time that a PHA/MFH Owner will delay the initiation of termination or eviction proceedings for noncompliant families, must be included in the PHA's Administrative Plan or ACOP or a MFH Owner's Tenant Selection Plan.

A.3.c Limited Enforcement: Option to Cure

PHA/MFH Owners may alternatively adopt a written policy of limited enforcement, which would differ from total enforcement of the asset limitation at reexamination in only one regard: all families who are found to be out of compliance at reexamination would be provided the same opportunity to come back into compliance. Families would have up to but no longer than six months, depending on the limited enforcement policy that the PHA/MFH Owner adopts, to demonstrate that they have come back into compliance. If the family does demonstrate they have come back into compliance within that period, the PHA/MFH Owner would not initiate termination or eviction proceedings.

Limited enforcement policies cannot provide families more than six months to come back into compliance and do not extend the period of time the PHA/MFH Owner may delay initiation of termination or eviction proceedings; the PHA/MFH Owner may still only delay initiation of termination or eviction proceedings for the family for a period of not more than six months. (In the case of a reasonable accommodation, a family may be afforded more than six months

to comply.) See paragraph A.4 on the features that determine whether owned real property renders the family out of compliance with the asset limitation.

If the PHA/MFH Owner has adopted a limited enforcement policy, that policy must address the timeframe for curing non-compliance (e.g., families will have six months to demonstrate they have cured non-compliance with the asset limitation). In establishing a limited enforcement policy, PHAs/MFH Owners may choose to allow an opportunity to cure non-compliance that is less than six months. Any limited enforcement policy, including the amount of time that a PHA/MFH Owner will delay the initiation of termination or eviction proceedings for families who do not demonstrate compliance, must be included in the PHA's Administrative Plan or ACOP or a MFH Owner's Tenant Selection Plan.

What families must do to cure non-compliance depends on why they were identified as out of compliance. Families could cure non-compliance by removing prohibited assets — for example, by selling real property or bringing net family assets below $100,000 (as adjusted for inflation). However, the value of assets disposed of for less than fair market value would still be counted in the family's net family asset total in the two years preceding the date of application for the program or reexamination. See Attachment F (paragraph F.4.a) for a discussion of what constitutes a disposition of assets for less than fair market value.

If the family is non-compliant with the asset limitation because of a present ownership interest in real property, but their net family assets do not exceed $100,000 (adjusted for inflation), they can cure non-compliance by demonstrating that either they no longer own the prohibited asset or that it now qualifies for an exemption (e.g., because the family is now offering it for sale), so long as the family's net family assets do not exceed $100,000 (adjusted for inflation) after such action is taken. (Note, however, that offering real property for sale does not thereby exclude the real property from the calculation of net family assets.)

A family with more than $100,000 (as adjusted annually for inflation) in net family assets may bring their assets below the threshold in several ways. The family could purchase something that is not counted among net family assets, such as necessary personal property (e.g., a car used for everyday transportation). Alternatively, the family may cure non-compliance by moving assets such that they are no longer counted among net family assets, so long as doing so is not counted as disposing of assets for less than fair market value. In some circumstances, the family may transfer funds into a retirement plan recognized as such by the Internal Revenue Service (e.g., an individual retirement arrangement, employer retirement plan, or retirement plan for self-employed individuals), if the account is held by a member of the family. An asset moved to a retirement account held by a member of the family is not considered an asset disposed of for less than fair market value. Likewise, the family may be able to move funds into an irrevocable trust for the benefit of someone in the assisted family.

When PHAs/MFH Owners have a limited enforcement policy and the family demonstrates they have cured non-compliance, PHAs/MFH Owners must record

the curing of a family's ineligibility in the family's file and permit families to remain in the program. The related updates to the family's income and assets would be processed at the next reexamination, which may be an interim if the family's circumstances meet the threshold for processing such a reexamination, or it may be the next annual reexamination. See Attachment I (Interim Reexaminations) of this notice.

A.3.d Exception Policies

At annual and interim reexamination, PHAs/MFH Owners may also establish exceptions to the asset limitation (not at admission or initial certification where the family is being rescreened for assistance). If the PHA/MFH Owner has adopted a written exception policy for reexaminations, then families in the specified exception categories will receive either total non-enforcement or limited enforcement, depending on the exception policy the PHA/MFH Owner has adopted. Families in the specified exception categories would either (a) not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at a reexamination, or (b) they would be provided an opportunity, up to but no longer than six months, to come back into compliance, after which point the asset limitation would be enforced. An exception policy may be combined with a limited enforcement policy for all other families not in the exception categories, as described below.

PHAs/MFH Owners are permitted to include more than one exception as part of any exception policy. Exception policies may be based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided[A2]. All exception policies must comply with civil rights and fair housing statutes and requirements, including but not limited to requirements identified in 24 CFR § 5.105(a).

Limited exception policies, which establish an opportunity to cure noncompliance, cannot provide families more than six months to cure these conditions. (In the case of a reasonable accommodation, a family may be afforded more than six months to comply.) If they have adopted such a policy, PHAs/MFH Owners must initiate termination or eviction proceedings for families who remain in non-compliance with the asset limitation within six months of the reexamination at which the non-compliance was determined. In establishing a limited exception policy, PHAs/MFH Owners may choose a period of delay that is less than six months.

PHAs/MFH Owners may choose to combine a limited enforcement policy (which applies to all families) with an exception policy for families in the specified exception categories. For example, they may adopt a limited enforcement policy that provides all families a window of six months to cure non-compliance with the asset limitation, and they may simultaneously adopt an exception policy that provides that the asset limitation will not be enforced at all at annual and interim reexaminations for families in the exception categories. PHAs/MFH Owners

could alternatively adopt a limited enforcement policy for all families that provides a window of less than six months to cure non-compliance, alongside a limited exception policy that allows families in the exception categories a longer period of time (up to but no longer than six months) to cure non-compliance.

Any exception policy must be included in the PHA's Administrative Plan or ACOP or a MFH Owner's Tenant Selection Plan. The exception policy must describe whether excepted families are subject to total non-enforcement or limited enforcement.

[A2] Sec. 104(e)(5) of P.L.114-201 (HOTMA).

Example A1: Asset Limitation Exception Policies

Sample Policy A: For all families that meet the definition of extremely low income at reexamination and are found to be non-compliant with the asset limitation, the PHA/MFH Owner will not enforce the asset limitation at reexamination. Such families will not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at reexamination. All other families will be subject to a limited enforcement policy and provided six months to cure noncompliance.

Sample Policy B: For all families that meet the definition of extremely low income at reexamination and are found to be non-compliant with the asset limitation, the PHA/MFH Owner will not enforce the asset limitation at reexamination. Such families will not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at reexamination. All other families will be subject to the enforcement policy.

Sample Policy C: Families with an elderly family member or a member with a disability will be given six months to cure their non-compliance with the asset limitation, as stated in the PHA/MFH Owner's policies. All other families will be subject to a limited enforcement policy and provided four months to cure noncompliance.

Sample Policy D: Families with an elderly family member or a member with a disability will be given six months to cure their non-compliance with the asset limitation, as stated in the PHA/MFH Owner's policies. All other families will be subject to the enforcement policy.

A.4 Real Property Determination

At admission and at reexamination, if the PHA/MFH Owner is enforcing the asset limitation, including limited enforcement, and a family declares that they have a present ownership interest in real property, then the PHA/MFH Owner must determine whether the property qualifies for an exemption as described in paragraph A.4.a (Exemptions to the Real Property Restriction in the Asset Limitation), whether the family lacks a legal right to reside in the real property as described in paragraph A.4.b (Legal Right to Reside in the Real Property), whether they lack the effective legal authority to sell the real property as described in paragraph A.4.c (Effective Legal Authority to Sell the Real Property), or whether the real property is unsuitable for occupancy as described in paragraph A.4.d (Suitability of Real Property for Occupancy). If the PHA/MFH Owner finds that any of these four things are true, then the family's present ownership interest in real property does not itself mean the family is out of compliance with the asset

limitation. The type of third-party documentation that will be used to verify the disposition of a family's real property may vary by a family's circumstances and the locality in which the real property is located.

A.4.a Exemptions to the Real Property Restriction in the Asset Limitation The real property restriction does not apply to the following:

- Any property for which the family is receiving assistance under 24 CFR § 982.620 (i.e., a manufactured home owned by a family who receives assistance to lease the space or lot in which it is located). Likewise, any property for which the family is receiving assistance under the Homeownership Option in 24 CFR Part 982. See 24 CFR § 5.618(a)(1)(ii)(A).
- Any property jointly owned by a family member and another individual who does not live with the family but who resides at the jointly owned property. See 24 CFR § 5.618(a)(1)(ii)(B).
- Any property owned by a family that includes a person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR Part 5 (Subpart L). For example, if the victim is a minor, the real property limitation does not apply to any property owned by the victim's parent or guardian. When a family requests an exemption from the real property limitation on this basis, the PHA/MFH Owner must accept self-certification and follow the confidentiality and documentation-request requirements established at 24 CFR § 5.2007. See 24 CFR § 5.618(a)(1)(ii)(C).
- Any property that the family is offering for sale. Documentary evidence of the sales process could include, for example, a contract with a real estate agent or a current real estate listing. See 24 CFR § 5.618(a)(1)(ii)(D).

A.4.b Legal Right to Reside in the Real Property

The real property restriction applies only when the family has the legal right to reside in the real property. Whether a family has the legal right to reside in a property may be dependent on state and local law. The family may own real property that legally they may not reside in. For example, the family may own a commercial property, such as a convenience store or other retail establishment, which cannot be occupied as a place of residence by the family. Families who claim they lack the legal right to reside in the real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance.

A.4.c Effective Legal Authority to Sell the Real Property

The real property restriction applies only when the family has the effective legal authority to sell the real property, based on the laws of the state or locality in which the property is located. There may be multiple reasons why a family does not have such legal authority. For example, when families are contesting ownership of a property in court, or an individual is in divorce proceedings, they

may be unable to sell the property until the completion of those proceedings. Someone who owns heirs' property may not have the authority to sell until others' claims to fractional ownership have been settled. Families who claim they lack the legal authority to sell the real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance. For example, a divorce pleading or complaint may demonstrate that there are actual divorce proceedings occurring.

A.4.d Suitability of Real Property for Occupancy

A property will be considered suitable for occupancy unless the family demonstrates that the real property meets one of the following five conditions (24 CFR § 5.618(a)(2)):

- The property is not capable of meeting the disability-related needs of all members of the family (e.g., does not meet physical accessibility requirements, family has disability-related need for additional bedrooms, family needs proximity to accessible transportation). Documentary requirements to establish disability-related needs must comply with applicable fair housing and civil rights requirements.
- The property is not sufficient for the size of the family. A PHA/MFH Owner's occupancy standards may be used for such a determination.
- The property is geographically located so that it creates a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would place a hardship on the family, as determined by the PHA/MFH Owner. Distance or commute time to school/work are illustrative, but not exhaustive, examples of geographic hardships). Through written policies, PHAs/MFH Owners may set parameters on what constitutes such a hardship, but they must consider the specific circumstances of the family, including information provided by the family, in making a determination.
- The property is not safe to reside in because of its physical condition (e.g., the property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied). Unsafe property conditions could include external circumstances or environmental factors outside the control of the family. The property may be deemed not suitable for occupancy if the alterations that would be needed to make it safe to live in are cost prohibitive.
- The family does not have the legal right to reside in the property.

A.5 Special Considerations for Terminating Assistance or Evicting Families for Non-Compliance with the Asset Limitation

Even if PHAs/MFH Owners do not adopt a non-enforcement or limited enforcement policy and/or exception policy, they may delay for a period of up to six months the initiation of termination or eviction of assistance proceedings. They are not required to initiate termination or eviction of assistance proceedings immediately upon determining the family is out of compliance with the asset limitation, nor are they required to begin

the proceedings during the six-month period in order to have a termination of assistance or eviction completed at the six-month mark. PHAs/MFH Owners are encouraged to set policies for the initiation of termination or eviction of assistance proceedings that provide families adequate opportunity to find new housing.

What it means to initiate termination or eviction of assistance proceedings due to noncompliance with the asset limitation will vary by program:

- In the Section 8 Project-Based Rental Assistance program, including the Section 202/8 program, participants who are not compliant with the asset limitation must either pay the contract rent for the unit or vacate the unit after termination of assistance.
- In the Housing Choice Voucher program, participants who are not compliant with the asset limitation are subject to termination of assistance, but there is no requirement that the unit owner initiate eviction because of non-compliance with the asset limitation.
- In the Public Housing program, participants who are not compliant with the asset limitation are subject to termination of assistance and eviction from the unit, if they fail to vacate the unit voluntarily. There is no general provision that allows such families to remain and pay an alternative rent.
- In the Section 8 Project-Based Voucher program, participants who are not compliant with the asset limitation are subject to termination of assistance. The PHA and owner may agree to remove the unit from the HAP contract, at which point the unit becomes an unassisted unit, and the owner may choose to allow the family to stay and pay the market rent. (The owner may charge the family a rent that is below-market rate, in which case it would be considered a landlord-assisted unit for rent reasonableness purposes.) When the family subsequently vacates the unit, the unit may be added back to the HAP contract. If the project is partially assisted, the PHA and owner may substitute a different unit for the unit removed due to the ineligibility of the tenant, consistent with the requirements for adding units to the HAP contract. Alternatively, if the owner refuses to agree to remove the unit from the HAP contract, the owner must evict the family, if they fail to vacate the unit voluntarily. In this case, the owner may not enter into a new lease with the now-ineligible family for that PBV-assisted unit, and the PBV unit must be leased to an eligible family.
- In the Section 8 Moderate Rehabilitation program, participants who are not compliant with the asset limitation are no longer eligible for assistance. 24 CFR § 882.512 expressly allows that families who were eligible at admission but subsequently become ineligible may remain in HAP contract units. However, if the owner fails to have at least 90 percent of the assisted units leased or available for leasing by eligible families, the PHA may reduce the number of units covered by the HAP contract. The PHA will agree to an amendment of the HAP contract to provide for subsequent restoration of any reduction in units if the PHA determines that the restoration is justified by demand, the owner otherwise has a record of

compliance with obligations under the HAP contract, and contract authority is available.

PHAs/MFH Owners must follow program procedures for terminating assistance or tenancy. For example, for Public Housing families, when the PHA initiates the eviction and termination process, the PHA must provide a lease termination notice of 30 days unless a state or local law requires a longer notice period, and the family must be provided an opportunity for a hearing under the PHA administrative grievance procedure.

A.6 Required Policy Updates to Administrative Plans, ACOPs, and Tenant Selection Plans

A.6.a Admission Policies

PHAs/MFH Owners must establish written screening criteria in their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to prohibit the admission of applicants who own net family assets that exceed $100,000 (as adjusted for inflation) and/or real property that is suitable for occupancy. Policies should indicate the general parameters PHAs/MFH Owners will use when determining whether the location of real property constitutes a geographic hardship.

A.6.b Reexamination Policies

Whether a PHA/MFH Owner chooses to adopt a total non-enforcement, enforcement, limited enforcement, and/or exception policy for reexaminations, that policy and accompanying details must be set forth in the PHA's ACOP or Administrative Plan or in a MFH Owner's Tenant Selection Plan, as applicable.

PHAs/MFH Owners must also update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to indicate when they will initiate termination or eviction proceedings after participant families are determined to be out of compliance with the asset limitation, when the PHA/MFH Owner has established either an enforcement policy or policies to permit families to cure their noncompliance. PHAs/MFH Owners must initiate termination or eviction proceedings for families who remain out of compliance with the asset limitation within six months of the reexamination at which the non-compliance was determined. Policies should indicate the general parameters PHAs/MFH Owners will use when determining whether the location of real property constitutes a geographic hardship.

ATTACHMENT B: TOPIC: CALCULATING INCOME

Regulations

24 CFR §§ 5.609(c)(1); 5.609(c)(2); 5.609(c)(4); 5.657(f); 882.515; 882.515(f); 882.808; 882.808(i)(5); 891.105; 891.410(c); 891.410(g)(1); 891.410(g)(2); 891.610(c); 891.610(g)(1); 891.610(g)(2); 891.750(c); 960.257; 982.516; and 982.516(f)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

See each subtopic.

Subtopics

B.1 New Admissions and Interim Reexaminations

Regulations: 24 CFR §§ 5.609(c)(1); 882.515; 891.410(c) and (g)(2); 891.610(c) and (g)(2); 960.257; and 982.516

Summary: When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, PHAs/MFH Owners must use anticipated income (current income) (i.e., the family's estimated income for the upcoming 12-month period). This requirement is consistent with the pre-HOTMA process for conducting income examinations at admission and for interim reexaminations.

B.2 Annual Reexaminations

Regulations: 24 CFR §§ 5.609(c)(2); 882.808; 891.410(g)(1); and 891.610(g)(1) 960.257; and 982.516

Summary: The final rule revises the standards for income calculation during annual reexamination.

PHAs/MFH Owners have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. See Attachment J (paragraph J.4) (Determination of Income Using Other Means Tested Public Assistance (i.e., "Safe Harbor")) of this notice for an example of how to calculate annual income using the safe harbor method.

During annual reexaminations, except where the PHA/MFH Owner uses a streamlined income determination under 24 CFR §§ 5.657(d), 960.257(c), or 982.516(b) (see Attachment I (paragraph I.8) (Streamlined Income Determination)), PHAs/MFH Owners must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with the PHA/MFH Owner's policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), must be considered. Income from assets is always anticipated, irrespective of the income examination type.

A change in income, for example, may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. PHA/MFH Owners will look at the entirety of the family's unearned income and earned income from the prior year, in which earned income may have been one constant job or many different jobs that start and stop. Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law.[B1] See Attachment B (paragraph B.3) of this notice for more information on the COLA. The three steps outlined below apply for both earned and unearned income.

Overview of Calculating Annual Income at Annual Reexamination

Step 1: Determine the annual income for the previous 12-month period as defined at 24 CFR § 5.609(a) and (b). If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family's rental assistance.

The PHA/MFH Owner reviews the following information to determine prior-year income:

- The EIV Income Report (must be pulled within 120 days of the effective date of the annual reexamination to be considered current);
- The income reported on the most recent reexamination HUD–50058/HUD–50059; and
- What the family certified to on the PHA/MFH Owner's current annual reexamination paperwork for prior-year income, if available.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination.

- If an interim reexamination was performed within the reexamination cycle and there are no additional changes, the PHA/MFH Owner must use the annual income from the interim reexamination to determine the family's rental assistance. The PHA/MFH Owner may use the verification obtained from the interim reexamination for this step.
- If the PHA/MFH Owner did not perform an interim reexamination or if the family reports that there have been changes since the last reexamination, move to Step 3.

[B1] P.L. 92–336: https://www.govinfo.gov/content/pkg/STATUTE-86/pdf/STATUTE-86-Pg406.pdf#page=16.

Step 3: If there were changes in annual income not processed by the PHA/MFH Owner since the last reexamination, use current income.

- Family reports their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA/MFH Owner may use documentation of prior-year income to calculate the annual income used for the current annual reexamination HUD–50058/HUD–50059. For example, the PHA/MFH Owner could use the following documentation :

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current level 4[B2] documents verifying prior-year income that are dated within the required timeframe (120 days of receipt by the PHA/MFH Owner), for example:

  ○ Year-end statement ○ Pay stub with year-

  to-date amount ○ Tax forms (Form 1040,

  W2, 1099, etc.)

If there are reported changes by the family or the PHA/MFH Owner notes discrepancies between EIV and what the family reports, follow the verification hierarchy to document and verify income. See Attachment J (paragraph J.5) (Verification Hierarchy) of this notice for information about verification.

Example B1: Calculating Annual Income at Annual Reexamination Using EIV

Background: Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA/MFH Owner since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 3.2 percent.
Last reexamination – 3/1/2023 Annual Reexamination
Ruby: Wages: $30,000 — Georgia: SSI: $10,980 ($915 monthly)
The EIV report pulled on 12/15/2023
Ruby: Wages Total: $33,651 Quarter 3 of 2023: $8,859 (City Public School) Quarter 2 of 2023: $8,616 (City Public School) Quarter 1 of 2023: $8,823 (County Public School) Quarter 4 of 2022: $7,353 (County Public School) Georgia: SSI Total: $10,980 2023 benefit $915 monthly

[B2] See Table J2.

Income Reported on Reexamination Application
Ruby: Wages at City Public School: $32,000 (switched jobs Georgia: SSI benefits: $10,980 (no changes in income) but no permanent change to amount)

Calculating Ruby's wages:	Calculating Georgia's SSI benefit:
Step 1: Determine prior annual income from EIV (i.e., EIV Q4 2022 through Q3 of 2023: $33,651).	Step 1: Determine the prior annual income from (i.e., $915 x 12 months: $10,980).
Step 2: Take into consideration any interim income completed since the reexamination (in this case, there have been no interim reexaminations processed since the last reexamination).	Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).
Step 3: Ruby certifies that the $33,651 of wages in EIV accurate and reflects her current annual income, so PHA/MFH Owner will use $33,651 for annual for the 3/1/2024 annual reexamination given there have been no additional changes to annual income for the 3/1/2024 annual reexamination:	Step 3: Ruby certifies the SSI income in EIV is is accurate and reflects Georgia's current annual income. the The PHA/MFH Owner must adjust the prior-year wages income (2023 SSI benefit) by the 3.2-percent COLA and will use this amount to calculate annual SSI income. COLA: $29.28 ($915 x 0.032 New gross SSI benefit: $11,331.36 ($944.28 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy in Attachment J (paragraph J.5) (Verification Hierarchy) of this notice.	
Summary of Annual Income (as reported on the HUD–50058/HUD–50059)	
Ruby (Head of Household): Other Wage: $33,651	Georgia (Other Youth Under 18): SSI: $11,748
Myers Family Total Annual Income: $45,399	

Example B2: Calculating Annual Income at Annual Reexamination Using EIV: Family Disagrees with EIV

Background: Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from $28,000 to $7,500 resulting from his new parttime employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.
5/1/2023 Annual Reexamination Wages: $28,000
Last Reexamination: 7/1/2023 Interim Reexamination Wages: $7,500

The EIV report pulled on 1/15/2024
Wages Total: $18,271 Quarter 3 of 2023: $2,500 (Viking Bakery) Quarter 3 of 2023: $796 (Sweet Tooth Candy Bar) Quarter 2 of 2023: $1,300 (Sasha's Sweets) Quarter 2 of 2023: $584 (Larry's Concessions) Quarter 2 of 2023: $2,401 (Viking Bakery) Quarter 1 of 2023: $6,500 (Sasha's Sweets) Quarter 4 of 2022: $600 (Sasha's Sweets) SS/SSI: No history of benefits.
Income Reported on Reexamination Application
Wages: $0 (permanent change; no longer receiving) Social Security: $14,400 ($1,200 monthly) Paul certified on the PHA's annual reexamination paperwork that he does **not** agree with the annual wages of $18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of $1,200 effective 3/1/2024.
Calculating Wages and SS Benefit
Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: $18,271) Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to $7,500. Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all. Process the annual reexamination effective 5/1/2024 using annual SS income of $14,400 and $0 wages.

Summary of Annual Income (as reported on the HUD–50058/HUD–50059)
Paul (Head of Household): $14,400 (SS)
Hewson Family Total Annual Income: $14,400

Example B3: Calculating Annual Income at Annual Reexamination

Background: Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Poole, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from $200 to $100 per month, but an interim reexamination was **not** processed, because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA/MFH Owner did not establish a lower threshold (see Attachment I, paragraph I.1). Samantha did not report any additional changes to the PHA/MFH Owner.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:	Fergus:
Business income: $28,000	Wages: $8,250
VA disability pension: $12,000	Other non-wage income: $3,000 (Go Fund Me online fundraiser) Child support: $2,400

The EIV report pulled on 9/16/2024

Samantha:	Fergus:
Wages Total: $0 (no wage data reported since Q1 2023)	Wages Total: $8,600
	Quarter 1 of 2024: $2,100 (Ian's Fish 'n' Chips)
	Quarter 1 of 2024: $500 (Claire's Healthcare Supplies)
	Quarter 4 of 2023: $1,000 (Claire's Healthcare Supplies)
	Quarter 3 of 2023: $1,800 (The Onion Garden Shop)
	Quarter 2 of 2023: $3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA/MFH Owner's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported **only** wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA/MFH Owner for the 11/1/2024 annual reexamination.

Samantha:	Fergus:
Business income: $28,750 (last year); has decreased to $18,000 (permanent change)	Wages: $6,000
VA disability benefit: $12,000 (last year); has increased to $12,300 (permanent change)	
Child support: $2,400 (last year); has decreased to $1,200 (permanent change)	

Calculating Samantha's Net Business Income

Step 1: Determine prior annual *net business income* (i.e., $28,000 on last HUD–50058/HUD–50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current **net business income**. Samantha reported on the annual reexamination application that business income permanently decreased to $18,000. The PHA/MFH Owner must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is $18,000. Process the annual reexamination effective 11/1/2024 using annual **net business income** determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual **VA pension income** (i.e., $12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was $1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA/MFH Owner needs to adjust to reflect current **VA pension income**. Samantha supplies a VA award letter showing the COLA adjusted monthly pension of $1,025, or $12,300 annually. Process the annual reexamination effective 11/1/2024 using annual **VA pension income** determined in Step 3 ($12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual **child support income** (i.e., $2,400 on the last HUD–50058/HUD–50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from $200 to $100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA/MFH Owner must adjust to reflect current **child support income**. In this example, the family submitted a child support history report from the local child support office that documents regular $100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual **child support income** determined in Step 3 ($1,200 in this example).

Calculating Fergus's Wages
Step 1: Determine prior annual income from **wages** in EIV (i.e., Q2 2023 through Q1 of 2024: $8,600). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. Step 3: There is a discrepancy between what the family reported and EIV, so the PHA/MFH Owner must verify and adjust to reflect current annual income from **wages**. Fergus reported $6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA/MFH Owner projected annual income of $7,800 based on the two paystubs for this employer, and EIV shows $8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA/MFH Owner must do the following: resolve the discrepancy between EIV wages, the $6,000 annual income Fergus reported, and the $7,800 projected based on the paystubs he provided, and verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies. The PHA/MFH Owner determined that Fergus reported his net vs. gross annual income from **wages,** which he corrected on the annual reexamination form to reflect his current gross annual income of $9,000. The PHA/MFH Owner verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on two current and consecutive paystubs, Fergus is now projected to earn $9,360 annually. Process the annual reexamination effective 11/1/2024 using income from **wages** determined in Step 3 ($9,360 in this example).
Calculating Fergus's Other Non-Wage Income
Step 1: Determine prior annual income from other **non-wage income** (i.e., $3,000 on the last HUD–50058/HUD–50059). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058/HUD–50059. The PHA/MFH Owner must verify and adjust to reflect current **non-wage income**. The PHA/MFH Owner must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual **non-wage income** of $0 determined in Step 3.

Summary of Annual Income (as reported on the HUD–50058/HUD–50059)	
Samantha (Head of Household):	Fergus (Co-head):
Own business: $18,000	Wages: $9,360
Pension: $12,300	
Child support: $1,200	
Poole Family Total Annual Income: $40,860	

B.3 Applying the Current SSA COLA at Next Annual and Interim Reexamination

Regulations: 24 CFR §§ 5.609(c)(2); 960.257; 982.516; and 891.105

Summary: Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to

reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov.

Effective the day after SSA has announced the COLA, PHAs/MFH Owners are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

Example B4: Adjusting the SS Benefit by the COLA

Elizabeth Peterson receives $500 a month (SS benefit). The PHA/MFH Owner is processing her annual reexam (in November 2023), which is effective 1/1/2024. The PHA/MFH Owner must determine annual SS income as follows:

- Current benefit amount: $500
- COLA: $16.00 ($500 x 3.2 percent [or 0.032])
- New gross SS benefit effective 01/01/2024: $516.00 ($500 current benefit + $16 COLA)
- Annual SS income effective 1/1/2024: $6,192 ($516 x 12)

B.4 De Minimis Errors

Regulations: 24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655

Summary: PHAs/MFH Owners will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a PHA/MFH Owner's determination of a family's income deviates from the correct income determination by no more than $30 per month in monthly adjusted income (or $360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking. PHAs/MFH Owners will not be issued a finding by HUD or the Contract Administrator (MFH only) for de minimis errors in income calculation.

As PHAs/MFH Owners become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. PHAs/MFH Owners must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs/MFH Owners make de minimis errors in the income determination. Families will not be required to repay the PHA/MFH Owner in instances where the PHA/MFH Owner miscalculated income resulting in a family being undercharged for rent.

PHAs/MFH Owners must revise their Administrative Plans, ACOPs, and Tenant Selection Plans, as applicable, to reflect how they will repay or credit a family the amount

they were overcharged as a result of the PHA/MFH Owner's de minimis error in income determination.

PHA/MFH Owner Discretion: None.

ATTACHMENT C: TOPIC: DEDUCTIONS AND EXPENSES

Regulations

24 CFR §§ 5.603; 5.611(a)(1); 5.611(a)(2); 5.611(a)(3); 5.611(a)(3)(ii); 5.611(b)(1); 5.611(b)(1)(i); 5.611(b)(1)(ii); 5.611(c)(1); 5.611(c)(1)(D); 5.611(c)(2); 5.611(d); 5.611(e); 5.611(e)(2); and 891.105

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

PHAs/MFH Owners must consider mandatory deductions when determining a family's annual adjusted income. PHAs may also consider additional (permissive) deductions to a family's annual income if established by a written policy in the PHA's ACOP or Administrative Plan.

Subtopics

C.1 Dependent Deduction

Regulation: 24 CFR § 5.611(a)(1)

Summary: Effective January 1, 2024, the dependent deduction amount is $480. This amount will be adjusted annually (see Attachment H) and applies to a family's next annual or interim reexamination after the annual adjustment, whichever is sooner. Not later than September 1 annually, HUD will publish the CPI–W adjusted dependent deduction to the HUDUser Web site.[C1] PHAs/MFH Owners must implement the adjusted dependent deduction for all income examinations that are effective on January 1 or later.

PHA/MFH Owner Discretion: None.

C.2 Elderly/Disabled Family Deduction

Regulation: 24 CFR § 5.611(a)(2)

Summary: Effective January 1, 2024, the elderly/disabled family deduction increases from $400 to $525 and applies to a family's next interim or annual reexamination, whichever is sooner, after the date on which the PHA/MFH Owner implements the new elderly/disabled family deduction. The amount of the deduction will be adjusted annually (see Attachment H). Not later than September 1 annually, HUD will publish the CPI–W adjusted elderly/disabled family deduction to the HUDUser Web site.

[C1] https://www.huduser.gov/portal/pdrdatas_landing.html.

PHA/MFH Owner Discretion: None.

C.3 Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

C.3.a New Higher Threshold for Deducting Health and Medical Care Expenses and Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulation: 24 CFR § 5.611(a)(3)

Summary: The final rule establishes that the sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the family's annual income can be deducted from annual income. Prior to January 1, 2024, the threshold was 3 percent of the family's annual income.

C.3.b New Definition of Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

Regulation: 24 CFR § 5.603

Summary: Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs/MFH Owners to specifically align their policies with IRS Publication 502[C2] for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. PHAs/MFH Owners must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

PHA/MFH Owner Discretion: None.

C.3.c Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulation: 24 CFR § 5.611(a)(3)(ii)

[C2] Publication 502 explains the itemized deduction for medical and dental expenses used for tax purposes, including what expenses, and whose expenses, can and cannot be included in figuring the deduction.

Summary: Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing. Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

In order to claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

PHA/MFH Owner Discretion: None.

C.4 Hardship Exemptions for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulations: 24 CFR §§ 5.611(c)(1); 5.611(c)(1)(D); and 5.611(c)(2)

Summary: As stated in C.3.a, the threshold to deduct health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses has been increased from an excess of 3 to an excess of 10 percent of annual income. Concurrently with this increase, the regulations provide financial hardship exemptions for unreimbursed health and medical care expenses, and for reasonable attendant care and auxiliary apparatus expenses for eligible families. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of 5 percent of annual income. In order to claim **unreimbursed health and medical care expenses**, the family must have a head, co-head, or spouse that is elderly or a person with a disability. In order to claim **unreimbursed reasonable attendant care and auxiliary apparatus expenses**, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

To initiate, extend,[C3] or conclude a hardship exemption only, PHAs/MFH Owners will process and submit a non-interim reexamination transaction as described in Attachment I (paragraph I.4) (Non-Interim Reexamination Transactions) of this notice.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Note: A family receiving phased-in relief may request to receive general hardship relief instead; **once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.**

[C3] See paragraph C.6.e, below.

C.4.a Phased-In Relief

This section describes the phased-in relief for families affected by the statutory increase in the threshold to receive unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expense deductions from annual income.

All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first after the date on which the PHA/MFH Owner implements the phased-in relief. Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months. After the family has completed the 24 months phase-in at the lower thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA/MFH Owner will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

The following table demonstrates when the phased-in relief will begin and increase every 12 months during the 24-month phase-in period.

Table C1: Phased-in Relief Timing

Phased-in Relief Timing	In Excess Threshold Percentage for Families Receiving the Health and Medical Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense Deduction as of January 1, 2024	Reexamination Type
First annual reexamination or interim reexamination, whichever occurs first on or after the date on which the PHA/MFH Owner implements the phased-in relief.	5 percent	Annual or Interim Reexamination

Twelve months after the 5-percent phase-in began	7.5 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA/MFH Owner processes with a non-interim transaction.
Twelve months after the 7.5percent phase-in began	10 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA/MFH Owner processes with a non-interim reexamination transaction.

Example C1: Phased-In Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Ms. Bell's annual reexamination is due on June 1, 2024. Her last annual reexamination was effective June 1, 2023, and she received a deduction for unreimbursed health and medical expenses. She did not have any interim reexaminations after her annual reexamination was completed. Ms. Bell's unreimbursed health and medical expenses were 8 percent of her annual income. For her annual reexamination effective June 1, 2024, the PHA determines that Ms. Bell's annual income is $10,000 and her unreimbursed health and medical expenses are $800 (8 percent of her annual income).

Although Ms. Bell's unreimbursed health and medical care expenses are not in excess of the new 10-percent threshold to receive the deduction, since she was receiving a deduction for unreimbursed health and medical expenses on January 1, 2024, Ms. Bell is automatically eligible for the deduction pursuant to the phased-in hardship exemption. The PHA/MFH Owner will apply the phased-in relief threshold to deduct the expenses that exceed 5 percent of her annual income which is $300 ($800 - $500) for this reexamination.

Since her expenses are more than 7.5 percent of her annual income, Ms. Bell will receive the benefit of the unreimbursed health and medical expense deduction until her next annual reexamination on June 1, 2025, or interim reexamination (whichever occurs first), when the threshold will be increased to 7.5 percent. Assuming her medical expenses are still $800, she will be able to deduct $50 ($800 - $750).

PHAs/MFH Owners **must** track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move with continued assistance in the HCV program or port to another PHA. The phase-in must also continue for families who move to another Public Housing unit at the same PHA, or who transfer internally to another unit within the same MFH property. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024.

The table below describes the potential phased-in relief outcomes based on a family's status in PIH and MFH programs:

Table C2: Phased-in Relief Outcomes According to Family's Status in Program for Multifamily Housing Program

Family's Status in Program	Is Family Receiving Phased-in Relief?	Outcome of Phased-in Relief	Required Documentation
Family's assistance is terminated in any program.	Yes	Phased-in relief ends upon termination. When readmitted, family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA/MFH Owner.	N/A. No documentation of phased-in relief is needed.
Public Housing: Family transfers PH units within the same PHA. Housing Choice Voucher: Family moves with continued assistance in the HCV program with the same PHA or ports to a new PHA. MFH: Family transfers units within the same MFH property and are not treated as a new admission.	Yes	Families must continue to receive the phased-in relief. The family will receive the remaining calendar months of the percentage phase-in in their new unit.	The PHA or MFH Owner will use the existing phase-in documentation to determine the remaining calendar months of the percentage phase-in.
Family is treated as a new admission under a different property/program (e.g., family moves from one MFH property to another MFH property, the family moves from Public Housing to the HCV program, etc.).	Yes	Unless the PHA/MFH has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10percent threshold unless request for general relief is approved by PHA/MFH Owner.	If the PHA/MFH Owner elects to continue the phased-in hardship relief, then the following documentation is required: Copy of forms HUD–50058 or 50059 from the family showing phased-in relief. If the forms are unavailable, then the PHA/MFH Owner may

			obtain self-certification from family declaring effective date of 5percent or 7.5-percent phase-in. The PHA/MFH Owner must document in the file the reason that the forms HUD-50058 or 50059 were unavailable.
Unit in which family resides converts to PBV or PBRA funding under the Rental Assistance Demonstration.	Yes	Families must continue to receive the phased-in relief. The family will receive the remaining calendar months of the percentage phase-in in their new unit.	Copy of forms HUD–50058 or 50059 from the family showing phased-in relief. If the forms are unavailable, then the PHA/MFH Owner may obtain selfcertification from family declaring effective date of 5-percent or 7.5percent phase-in. The PHA/MFH Owner must document in the file the reason that the forms HUD-50058 or 50059 were unavailable.

PHA/MFH Owner Discretion: PHAs/MFH Owners may establish a policy to continue the phased-in hardship relief for families who were eligible for relief as of January 1, 2024, and who are treated as new admissions under a different program.

C.4.b General Relief

This section describes when a family is eligible for general relief related to the health and medical care expense and reasonable attendant care and auxiliary apparatus expense deduction.

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If a PHA/MFH Owner determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5

percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, PHAs/MFH Owners may, pursuant to their own discretionary policy, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

Example C2: General Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Mr. Beck's annual reexamination is due on August 1, 2024. In his last reexamination, he did not have any unreimbursed health and medical expenses and/or auxiliary and attendant care expenses. However, Mr. Beck has since been in a car accident, and he has increased eligible health and medical expenses equal to 6 percent of his annual income. On February 15, 2024, Mr. Beck asks the PHA/MFH Owner for a hardship exemption to allow him to receive a health and medical care expense deduction, which will help him cover his rent.

The PHA/MFH Owner determines that the family Is eligible for general relief and an interim reexamination would not have otherwise been triggered. The PHA/MFH Owners processes a non-interim change that applies a health and medical expense deduction for the eligible expenses that exceed 5 percent of annual income for 90 days. The PHA/MFH Owner may extend the relief for one or more additional 90-day periods while Mr. Beck's hardship condition continues and may extend the exemption beyond 90 days if a policy for extending hardship relief is included in the written policy for the PHA/MFH Owner.

PHA/MFH Owner Discretion: PHAs/MFH Owners must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs/MFH Owners must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

Examples of circumstances constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or □ Other circumstances as determined by the PHA/MFH Owner.

PHAs/MFH Owners must not conduct an interim reexamination to add, remove, or to extend a hardship exemption, unless another change experienced by the family triggers an interim reexamination under the applicable regulation or in accordance with the PHA/MFH Owner's discretionary policies on conducting interim reexaminations for adjusted income decreases that are less than ten percent. Instead, the PHA/MFH Owner will process and submit a non-interim reexamination transaction as described in Section 16.4 (Non-Interim Reexamination Transactions) of this notice.

C.5 Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction

Regulation: 24 CFR §§ 5.603 Child-Care Expenses and 5.611(d)

See also Attachment I (paragraph I.4) (Non-Interim Reexamination Transactions).

Summary: Under 24 CFR § 5.611(d), any reasonable child-care expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable child-care expenses are defined in 24 CFR § 5.603(a) and are expenses for the care of children (including foster children if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as a stipend from the child welfare agency), under 13 years of age, when all the following statements are true:

- The care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational)); and
- The expense is not reimbursed by an agency or individual outside the household.

The amount deducted must not exceed the amount of employment income that is included in annual income.

A family whose eligibility for the child-care expense deduction **is ending** may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent.

When a family requests a hardship exemption to continue receiving a child-care expense deduction that is ending, the PHA/MFH Owner must recalculate the family's adjusted income and continue the child-care deduction if the family demonstrates to the PHA's/MFH Owner's satisfaction that the family is unable to pay their rent (see Attachment C (paragraph C.6.a) (Policy for Determination of the Family's Inability to Pay Rent)) because of loss of the child-care expense deduction and the child-care expense is still necessary even though the family member is no longer working, looking for work, or furthering their education. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. The PHA/MFH Owner, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.

To initiate, extend or conclude a hardship exemption, PHAs/MFH Owners will submit a non-interim transaction code on form HUD–50058/HUD–50059, unless there is an accompanying event that triggers an interim reexamination.

Example C3: Hardship Exemption to Continue Child-Care Expense Deduction

Ms. Branch had been paying $250 per week for her child, Violet, to attend child care, while she was employed at a local coffee shop. Ms. Branch became unemployed when the coffee shop permanently closed. Ms. Branch has plans to enroll in college in two months. Although Ms. Branch has the availability to watch Violet, the child-care center has a long waiting list, and if Ms. Branch pulls Violet out temporarily, she would likely be without reliable child care when she starts college. Continuing to pay child-care expenses while not receiving earned income has made the family unable to pay their rent portion.

The PHA/MFH Owner determined that Ms. Branch met the hardship exemption criteria, as established in the MFH Owner's written policies, and is unable to pay rent. The PHA/MFH Owner will allow Ms. Branch to continue to receive the child-care expense deduction for 60 days as Ms. Branch is anticipated to enroll in college in the next two months.

PHA/MFH Owner Discretion: PHAs/MFH Owners must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. PHAs/MFH Owners may extend hardship exemptions for additional 90-day periods based on family circumstances as stated in their written policies.

C.6 Hardship Policy Requirements

C.6.a Policy for Determination of the Family's Inability to Pay Rent

Regulation: 24 CFR § 5.611(e)

Summary: PHAs/MFH Owners must establish policies on how they define what constitutes a hardship (i.e., when a family is unable to pay rent, triggering eligibility for a hardship exemption).

PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption. PHAs/MFH Owners must describe these policies in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (childcare expenses or health and medical expenses) is more than 45 percent (for example) of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent. PHA/MFH Owners may use different percentage thresholds or methods for determining a family's inability to pay rent; the examples provided in this paragraph are for consideration purposes.

C.6.b Family Notification of Hardship Exemption

Regulation: 24 CFR § 5.611(e)(2)

Summary: PHAs/MFH Owners must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to the PHA/MFH Owner if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. PHAs/MFH Owners must provide families 30 days' notice of any increase in rent.

PHAs/MFH Owners are encouraged to communicate the availability of hardship exemptions and how to request a hardship to all applicants and families prior to beginning to comply with HOTMA.

PHA/MFH Owner Discretion: None.

C.6.c Family Notification of Hardship Exemption Denial

PHAs/MFH Owners must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial.

C.6.d Family Notification of Hardship Exemption Termination

PHAs/MFH Owners must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

Example C4: Termination of Hardship Exemption

The Olivera family is currently receiving a hardship exemption for child-care expenses. The family received an interim reexamination to decrease their earned income when an adult family member went on unpaid medical leave. The family is unable to pay rent during this time but still needs child care while the adult family member is receiving physical therapy. The family subsequently reports to the PHA/MFH Owner that the adult family member will resume employment in 3 weeks on March 23, at which point the family will no longer need the child-care hardship exemption. When the hardship exemption ends, the PHA/MFH Owner will process an interim reexamination to add the family's earned income and restart the non-hardship child-care expense deduction. The PHA/MFH Owner has a policy to consider earned income increases following an interim reexamination due to a decrease in income (see Attachment I (paragraph I.2)).

The PHA/MFH Owner must notify the family in writing that the hardship exemption will be terminated effective March 23 and provide the family with 30 days' notice of any rent increase. The family's rent increase will be effective on May 1.

C.6.e Extension of Hardship Exemption for Additional 90-Day Period(s)

PHAs/MFH Owners may at their discretion extend hardship exemptions for additional 90-day periods if the hardship continues pursuant to the PHA/MFH Owner's hardship policies. This provision applies to families receiving hardship exemptions for the child-care expenses deduction and general hardship relief for health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

PHA/MFH Owners may extend the hardship relief for as many 90-day periods as the hardship continues to affect the family. Policies for extending hardship relief for additional 90-day periods must be established in PHAs' Administrative Plans or ACOPs, and in MFH Owners' Tenant Selection Plans.

PHAs/MFH Owners must obtain third-party verification of the family's inability to pay rent or must document in the file the reason that third-party verification was not available. PHAs/MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day period.

C.7 Additional (Permissive) Deductions

Regulation: 24 CFR § 5.611(b)(1)

Summary: A PHA may, but is not required to, establish an additional deduction or deductions from a family's annual income. These deductions are also known as "permissive deductions." Note that the public housing Operating Fund formula is not revised to account for any decrease in PHA revenue attributable to implementing permissive deductions. Likewise, the subsidy costs attributable to implementing permissive deductions will not be taken into consideration in determining the PHA's HCV renewal funding or moderate rehabilitation funding. PHAs that adopt permissive deductions are required to incorporate these policies as part of the Administrative Plan or ACOP, as applicable.

MFH Owners are not permitted to adopt permissive deductions.

PHAs can respond to community needs by establishing a wide range of permissive deductions, including permissive deductions to provide incentives for families to work. Program regulations do not specify what types of permissive deductions are allowable. PHAs operating the Public Housing program have previously adopted permissive deductions that incentivize or encourage self-sufficiency and economic mobility.

As examples, a PHA may adopt an income deduction based on the following:

- The amount earned by certain members of the family (e.g., all income earned by elderly family members, etc.);
- The amount earned by families having certain characteristics (e.g., all income earned by family members employed by nonprofit organizations, etc.);
- the amount received by families or members from guaranteed income programs offered by select states and local governments;
- The amount earned by families or members during a certain time period or from certain sources (e.g., all income earned by full-time dependent students between JuneAugust, all income earned by family members employed by nonprofit organizations, etc.)
- The amount paid from the family's annual income, and not another source such as Medicaid or a child welfare agency, for unreimbursed health or medical expenses of a foster child or foster adult.

PHAs are still subject to federal nondiscrimination requirements, including the obligation to provide reasonable accommodations that may be necessary for households with family members with disabilities.

C.7.a. Additional (Permissive) Deductions: Public Housing Only

Regulation: 24 CFR § 5.611(b)(1)(i)

Summary: PHAs may continue to adopt additional deductions from annual income in the Public Housing program. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility. **A PHA that**

adopts such deductions will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of such deductions, so the financial impact of implementing permissive deductions must be carefully evaluated. PHAs may adopt permissive deductions for Public Housing only if they have established a written policy for such deductions. PHAs must put the total dollar amounts of any permissible deductions in column 8d and line 8e of the form HUD-50058.

PHA/MFH Owner Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the Public Housing program must create written policies in the PHA's ACOP. MFH Owners are not permitted to adopt permissive deductions.

C.7.b Additional (Permissive) Deductions: HCV and Moderate Rehabilitation Only

Regulation: 24 CFR § 5.611(b)(1)(ii)

Summary: When deciding whether to adopt a permissive deduction for the HCV program, the PHA will need to review its Housing Assistance Payments (HAP) funds utilization and projected leasing closely to ensure that enough HAP is available to support the number of families currently or planned to be leased. The costs attributable to permissive deductions will not be taken into consideration in determining the PHA's HCV renewal funding or Moderate Rehabilitation/SRO funding. A PHA must have sufficient funding to cover the increased HAP cost of the deductions.

For the HCV program, PHAs will be required to report any HAP spent on permissive deductions into VMS monthly. Additional guidance for reporting HAP spent on permissive deductions in VMS will be provided in the VMS Manual.

For Moderate Rehabilitation programs, PHAs will be required to report the additional subsidy cost as part of the Moderate Rehabilitation Year End Settlement they are currently required to submit to HUD.

Since permissive deductions will be excluded from the renewal calculation, PHAs may use outside funding to cover the cost. For example, the PHA may receive non-federal funding to cover the cost of a particular permissive deduction. This could also apply for research studies where the research director asks the PHA to exclude stipends or basic/guaranteed income amounts received during the study period, and the research study provides funding to the PHA to cover the cost.

PHA/MFH Owner Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the HCV or Moderate Rehabilitation/SRO programs must create written policies in the PHA's HCV Administrative Plans.

MFH Owners are not permitted to adopt permissive deductions.

ATTACHMENT D: TOPIC: APPLICABLE FAIR HOUSING AND CIVIL RIGHTS REQUIREMENTS

Regulations

24 CFR §§ 5.105(a), 8.6, 982.53; 28 CFR §§ 35.160 and 36.303

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

While HOTMA did not revise existing Fair Housing or Civil Rights requirements, PHAs/MFH Owners are reminded to follow all applicable nondiscrimination and equal opportunity requirements at 24 CFR § 5.105(a) and 24 CFR § 982.53, including but not limited to:

- the Fair Housing Act;
- Section 504 of the Rehabilitation Act of 1973;
- Title VI of the Civil Rights Act of 1964;
- the Age Discrimination Act;
- HUD's Equal Access Rule; and
- Title II of the Americans with Disabilities Act of 1990.

These requirements prohibit discrimination on the basis of race, color, religion, sex (including gender identity and sexual orientation), familial status, national origin, disability, age, and marital status. PHAs/MFH Owners must also comply with Title III of the Americans with Disabilities Act of 1990, as applicable (see 28 CFR part 36).

When an assisted household includes a person with disabilities, a reasonable accommodation may be necessary. A reasonable accommodation is a change, exception, or adjustment to rules, policies, practices, or services that may be necessary in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common areas, or to participate in or access programs and activities. Under Section 504, reasonable accommodations may also include a structural change to a unit, or to a public or common use area. In addition, the PHAs/MFH Owners must provide effective communication to persons with disabilities, including those with vision, hearing, and other communication-related disabilities, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible Web sites; and other accessible electronic communications). See 24 CFR § 8.6.

PHAs/MFH Owners must also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP). LEP guidance and LEP information is available here: https://www.federalregister.gov/documents/2007/01/22/07-217/final-guidancetofederalfinancial-assistance-recipients-regarding-title-vi-prohibition-against.

In addition, PHAs/MFH Owners must comply with the Violence Against Women Act (VAWA), HUD's implementing VAWA regulation at 24 CFR part 5 – subpart L, and applicable program regulations.

ATTACHMENT E: TOPIC: HOUSEHOLD COMPOSITION

Regulations

24 CFR §§ 5.403; 5.603; 5.609; 891.105; and 891.520

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance), Section 202/8	Section 202/162 PAC, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes[E1]	Yes

Summary

See subtopics.

Subtopics

E.1 Definition of Family

Regulation: 24 CFR § 5.403

Summary: The final rule revises the definition of family to also include a single person who:

- Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
- Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
- Is homeless or is at risk of becoming homeless at age 16 or older.

The definition of "family" in the final rule incorporates revisions made to the 1937 Act by the Fostering Stable Housing Opportunities provisions of the Consolidated Appropriations Act, 2021, which expands the definition of "single persons." Due to the modification of the statute prior to this final rule, HUD is making a conforming change to 24 CFR § 5.403 to align with the new statutory language.

PHA/MFH Owner Discretion: None.

E.2 New Definitions of Foster Adult and Foster Child

Regulation: 24 CFR § 5.603

Summary: The final rule establishes definitions for "foster adult" and "foster child." A foster adult is defined as a member of the household who is 18 years or older and meets

[E1] SPRACs have a program-specific definition of Family found in paragraph 2.3 (Families to be Housed) of the SPRAC II (form HUD–93742a).

the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state.

In general, a foster adult is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

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

Foster adults/children are not considered **family members** and must not be included in calculations of income for eligibility and rent determination purposes. However, foster adults/children are considered **household members** and must be included when determining unit size or subsidy standards based on established policies.

The definition of "dependent" under § 5.603 was revised to explicitly **exclude** foster children and foster adults. PHAs/MFH Owners may not provide a dependent deduction under § 5.611(a) for a foster child or foster adult. Consistent with the determination that foster adults/children are not family members, income earned by foster adults/children, payments received for the care of foster adults/children, and expenses incurred related to foster adults/children are not considered to be family income or family expenses used in the determination of annual income. Reasonable unreimbursed child-care expenses (as defined in § 5.603) for foster children under 13 years of age may be deducted from annual income if those expenses are necessary to enable a member of the family to work, look for work, or to further their education, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family's annual income (and not another source, such as a stipend from a child welfare agency). PHAs may use their discretion to establish permissive deductions pursuant to 24 CFR 5.611(b) related to foster children and foster adults – for example, to allow unreimbursed health and medical expenses (defined in § 5.603) of an elderly or disabled family related to their foster child or foster adult to be deducted from annual income, so long as the expenses are paid from the elderly or disabled family's annual income (and not another source, such as a stipend from a child welfare agency). MFH Owners are not permitted to adopt permissive deductions (see section C.7 for information on permissive deductions).

Families may be eligible to continue to receive the child-care expense deduction, pursuant to a hardship exemption, when the unreimbursed child-care expense is for the care of a foster child under the age of 13, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family's annual income (and not another source, such as a stipend from a child welfare agency). See Attachment C (paragraph C.5) (Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction) of this notice.

When a member of an assisted family is temporarily placed in foster care (as confirmed by the state child welfare agency), the member is still counted as a family member in the

unit from which they were removed. This means that a foster child or foster adult could be considered an assisted family member in one household while also being a foster child or adult in another household and receiving consideration in both families' voucher size and/or unit size.

PHA/MFH Owner Discretion: None.

E.3 Alignment of Family Member Definition Across Programs

Regulations: 24 CFR §§ 5.403; 5.603; and 5.609

Summary: Since approximately 2008, MFH programs have treated foster children and foster adults as family members. Effective with the final rule, foster children and foster adults will be treated as household members in MFH programs. This policy alignment is not a direct result of HOTMA but serves rather to conform MFH programs with the existing treatment of foster children/adults across other HUD programs.

HUD reminds PHAs and MFH Owners that the income and net family assets of household members are excluded when determining initial eligibility or eligibility for continued assistance; however, household members are considered for purposes of unit size and subsidy standards. For example, a live-in aide must be considered for bedroom size requirements for a unit, but their income and expenses would not be included for the purposes of income eligibility and assistance levels. Household members do not qualify for expenses or deductions, except that reasonable unreimbursed child-care expenses may be deducted for foster children under the age of 13 if it enables a member of the family to work, look for work, or go to school, and only if the unreimbursed child-care expense for the care of the foster child is paid from the family's annual income (and not another source, such as a stipend from a child welfare agency).

PHA/MFH Owner Discretion: None.

ATTACHMENT F: TOPIC: INCOME

Regulations

24 CFR §§ 5.100; 5.603; 5.603(b); 5.603(b)(3) – (b)(4); 5.609; 5.609(a)(1) – (a)(2); 5.618; 882.515(a); 882.808(i)(1); 891.105; 891.655; 960.259(c)(2); and 982.516(a)(3)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

See subtopics.

Subtopics

F.1 Annual Income

Regulations: 24 CFR §§ 5.609(a)(1)–(a)(2); and 891.105

Summary: Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 CFR § 5.609. See Attachment G (Income Exclusions). All amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker (see paragraphs F.2.a, F.2.b, and F.2.c, below) are included in annual income regardless of age, unless otherwise excluded in paragraph (b) of 24 CFR § 5.609.

Note: Annual income includes "all amounts received," not the amount that a family **may be** legally entitled to receive but **did not** . For example, a family's child-support or alimony income must be based on payments received, not the amounts the family is entitled to receive based on any court or agency order. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family. However, when a family member's wages or benefits are garnished, levied, or withheld[F1] to pay restitution, child support, tax debt, student loan debt, or other applicable debts, PHAs/MFH Owners must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

[F1] See: https://www.dol.gov/general/topic/wages/garnishments and https://faq.ssa.gov/en-us/Topic/article/KA01873.

Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded. Imputed returns on net family assets are included in annual income only when net family assets exceed $50,000 (a figure that is annually adjusted for inflation) and actual asset income cannot be calculated for all assets (see F.6.b, below, for a discussion of scenarios where income can be calculated for some but not all assets). PHAs/MFH Owners will not impute income from assets if the total value of net family assets is equal to or less than $50,000 (as adjusted by inflation). See paragraph F.4.a (Determining Net Family Assets), below, for the definition of net family assets and paragraph F.6 (Actual and Imputed Income from Assets).

PHA/MFH Owner Discretion: None.

F.2 Earned Income

Regulation: 24 CFR § 5.100

Summary: Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare

assistance, Social Security, and other governmental subsidies/benefits), or any cash or inkind benefits.

PHA/MFH Owner Discretion: None.

F.2.a Definition of Day Laborer Regulation:

24 CFR § 5.603(b)

Summary: A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

Income earned as a day laborer is not considered nonrecurring income under 24 CFR § 5.609(b)(24) (see Attachment G (paragraph G.1) (Nonrecurring Income) of this notice) and must be included, unless specifically excluded in 24 CFR § 5.609(b) (e.g., earnings of full-time students in excess of the dependent deduction (24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.2.b Definition of Independent Contractor

Regulation: 24 CFR § 5.603(b)

Summary: An independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax.

In general, an individual is an independent contractor if they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and transportation service providers are considered independent contractors unless state law dictates otherwise. In addition, individuals considered "gig workers," such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor.

Income earned as an independent contractor is not considered nonrecurring income (see Attachment G (paragraph G.1) (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., 24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.2.c Definition of Seasonal Worker

Regulation: 24 CFR § 5.603(b)

Summary: A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry.

Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver.

Income earned as a seasonal worker is not considered nonrecurring income (see Attachment G (paragraph G.1) (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., § 5.609(b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.3 Definition of Unearned Income

Regulation: 24 CFR § 5.100

Summary: Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

PHA/MFH Owner Discretion: None.

F.4 Assets

Asset requirements in 24 CFR §§ 5.603 and 5.609 apply to HCV (including ProjectBased Vouchers and all special purpose vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO, and MFH programs.

F.4.a Determining Net Family Assets Regulations:

24 CFR §§ 5.100 and 5.603

Summary: Net family assets are defined as the net cash value of **all assets owned by the family**, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded (see Attachment F (paragraph F.4.b) (Exclusions from Net Family Assets) of this notice).

Assets with negative equity. The cash value of real property[F2] or other assets with negative equity would be considered $0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Assets disposed of for less than fair market value. In determining the value of net family assets, PHAs/MFH Owners must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust,[F3] but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received.

For example, if a family gave away a home with a net value of $80,000, the value of the home must be included in the calculation of net family assets for two years following the transfer of property. If a family sold a home for less than fair market value, the difference between the value and the amount for which they sold it would be included in net family assets for two years following the transfer of property. For example, if a family sold a property with a fair market value of

$80,000 to a friend for $20,000, then the difference in value ($60,000) minus the cost to dispose of the property ($10,000), which is in this example totals $50,000, would be counted in net family assets for two years from the date of the property's transfer to the other party.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

Asset owned by business entity. If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own onethird of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

Jointly owned assets. For assets jointly owned by the family and one or more individuals outside of the assisted family, PHAs/MFH Owners must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded (see F.4.b of this notice), or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of

[F2] Real property, as used in 24 CFR Part 5, has the same meaning as that provided under the state law in which the real property is located.

[F3] A disposition in trust is when the family creates a trust for the benefit of someone outside of the assisted family. It would not be considered an asset disposed of for less than fair market value if the family establishes a nonrevocable trust for the benefit of someone in the assisted family.

any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded (see Attachment G), or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

PHA/MFH Owner Discretion: None.

F.4.b Exclusions from Net Family Assets

Regulations: 24 CFR § 5.603(b)(3)–(b)(4)

Required exclusions from net family assets include the following:

- The value of necessary items of personal property. (See paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice.)
- The value of all non-necessary items of personal property with a total combined value of $50,000 or less, annually adjusted for inflation. (See paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice.)
- The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including Individual Retirement Accounts (IRAs), employer retirement plans (e.g., 401(k), 403(b)), and retirement plans for selfemployed individuals.
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located. Examples of this include but are not limited to: co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities.
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986; the value of any qualified tuition program under section 529 of such Code; and the amounts in, contributions to, and distributions from any Achieving a Better Life Experience (ABLE) account authorized under section 529A of such code.
- The value of any "baby bond" account created, authorized, or funded by the federal, state, or local government (money held in trust by the government for children until they are adults).
- Interests in Indian trust land.
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982.
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982.
- Family Self-Sufficiency accounts.
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

- The full amount of assets held in an irrevocable trust. (See paragraph F.4.d (Trusts) of this notice.)
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household. (See paragraph F.4.d (Trusts) of this notice)

PHA/MFH Owner Discretion: PHAs/MFH Owners may need to revise application forms, interview guides and individual verification forms to ensure that they are gathering adequate information to make appropriate asset exclusion determinations.

F.4.c Necessary and Non-Necessary Personal Property

Regulation: 24 CFR § 5.603

Summary: Necessary personal property is excluded from net family assets. Nonnecessary personal property with a combined value greater than $50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts. For example, a family could have nonnecessary personal property with a combined value that does not exceed $50,000 but also own real property such as a parcel of land. Even though the nonnecessary personal property would be excluded from net family assets, the real property would be included in net family assets regardless of its value unless the real property meets a different exclusion under 24 CFR § 5.603.

Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items.

Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore it is incumbent on PHAs/MFH Owners to gather enough facts to qualify whether an asset is necessary or non-necessary personal property.

Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

The following table lists examples of necessary and non-necessary personal property. **This is not an exhaustive list.**

Table F1: Examples of Necessary and Non-Necessary Personal Property

Necessary Personal Property	Non-Necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care–related supplies Musical instruments used by the family	Recreational car/vehicle not needed for day-today transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as gems/precious metals, antique cars, artwork, etc.
Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	

Example F1: Necessary and Non-Necessary Personal Property

The Cross family owns three items of personal property. The family has a checking account valued at $5,000, a $15,000 recreational boat, and Ms. Cross's $3,000 engagement ring.

The checking account and recreational boat are both considered non-necessary personal property. They are worth a combined $20,000. The engagement ring is considered necessary personal property, because it is jewelry used in a religious/cultural celebration or ceremony. Since the total value of non-necessary personal property is less than $50,000, the family's non-necessary personal property will not be considered when calculating the Cross family's net family assets.

Cross Family's Personal Property

Item	Estimated Value	Type	Amount to be considered as non-necessary personal property
Checking account	$5,000	Non-necessary Personal Property	$5,000
Ring (engagement ring)	$3,000	Necessary Personal Property	$0
Recreational boat	$15,000	Non-necessary Personal Property	$15,000
		Total Non-necessary Personal Property:	$20,000

Calculation of Cross Family's Total Net Assets

Asset	Total to be Considered in Net Family Assets
Non-necessary Personal Property	$0
Real Property	$0
Total:	$0

The Cross family's total net family assets are $0.

PHA/MFH Owner Discretion: None.

F.4.d Trusts

Regulations: 24 CFR §§ 5.603 and 5.609

Summary: Whether the value of a trust counts as a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- Whether the trust is under the control of the family;
- Whether distributions are made from the trust's principal; and

- The purpose of the distribution, if the distribution is made from income earned on the trust's principal.

F.4.d.i Trusts as Net Family Assets

The value of irrevocable trusts and revocable trusts that are not under the control of the family are both excluded from net family assets.

The distinguishing feature of a revocable trust is that the grantor can terminate and/or amend the trust at any time for any reason before his or her death. In circumstances when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family, the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) **is** included in net family assets, and, therefore, income earned on the trust is included in the family's income from assets. This also means that PHAs/MFH Owners will calculate imputed income on the revocable trust if net family assets are more than $50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

F.4.d.ii Actual Income from a Trust

If the PHA/MFH Owner determines that the revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income.

Where an irrevocable trust is excluded from net family assets, the PHA/MFH Owner must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

F.4.d.iii Trust Distributions and Annual Income

- **Revocable trust considered part of net family assets:** If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.
- **Revocable or irrevocable trust not considered part of net family assets:** If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:
- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are

included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Table F2 below is a tool to assist PHAs/MFH Owners in determining whether a trust should be considered a net family asset and/or whether a trust's earned interest or distributions are considered income to the family.

Table F2: Annual Income/Net Family Assets Scenarios based on Trust Type

Trust Type	Is the trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principal considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

PHAs/MFH Owners must be careful to distinguish between distributions of principal and distributions of earnings on a trust's principal when verifying family income from irrevocable trusts and revocable trusts where the grantor is not part of the assisted family or household, so as not to unintentionally include distributions of principal that are not considered income.

Note: The policy implemented under HOTMA is a change from the previous policies of both PIH and MFH. Previously, PIH considered all distributions of principal or income earned on the principal as income unless the distribution qualified as an income exclusion. In determining whether a distribution from a trust should be counted as income to the beneficiary, MFH considered how the trust was funded, whether the distribution was from trust income or principal, and

whether any distribution from trust income met an existing income exclusion. The policy under HOTMA aligns the policies of MFH and PIH and clarifies that the term "income" means "trust income" and not **any** distribution from the trust to the beneficiary.

PHA/MFH Owner Discretion: None.

F.4.e Federal Tax Refunds or Refundable Tax Credits

Regulation: 24 CFR § 5.603

Summary: All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

Taxpayers have several options for receiving their tax refunds: via paper check or direct deposit into a checking or savings account; via TreasuryDirect to buy savings bonds; via direct deposit into a Traditional, Roth, or Simplified Employee Pension Plan-IRA; or via purchase of savings bonds, a Health Savings Account, an Archer Medical Savings Account, or a Coverdell Education Savings Account. Refundable tax credits, such as the Earned Income Tax Credit (EITC), are determined as part of an overall tax return submission to the Internal Revenue Service (IRS). Taxpayers receive one federal tax refund reflecting the taxpayer's tax liability, if negative, including any applicable refundable tax credits.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of net family assets. When the subtraction results in a negative number, then net family assets are considered $0.

Note: Only the amount that the family receives is excluded from net family assets. For example, if a family anticipates a $500 federal tax refund but only receives $250, then only $250 will be excluded from the net family assets because that is the amount that the family received.

PHAs/MFH Owners are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA/MFH owner does not accept selfcertification of assets. PHAs/MFH Owner must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $50,000.

The anticipated income earned by the assets in which a family has deposited their federal tax refund or refundable tax credits must be included in the family's annual income unless the income is specifically excluded under 24 CFR § 5.609(b).

Example F2: Federal Tax Refund Excluded from Net Family Assets

The Rodriguez family received a $4,500 federal tax refund on 3/1/2024 and deposited the refund into their checking account. At their next annual reexamination with an effective date of 8/1/2024, the PHA/MFH Owner asks the family about any assets they own, the anticipated income from the assets, and if they received a federal tax refund or refundable tax credits in the past 12 months and where they deposited the refund/refundable tax credits or if they purchased savings bonds with the refund.

The Rodriguez family explain that they received a $4,500 refund and that they deposited the refund into their checking account, which has a balance of $10,000. The Rodriguez family reports that they have actual income of $100 from the checking account this year. The family owns no other assets. Therefore, the family's total calculation of net family assets is $10,000. In determining the total value of net family assets, the PHA/MFH Owner subtracts $4,500 from the total of $10,000 of net family assets, for a total countable asset of $5,500. The full value of actual income is included as income, because actual income is always included even on excluded assets.

F.4.f Net Family Assets Examples

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets. These concepts are illustrated in the three examples below.

Example F3: Retirement Accounts

Background: The value of any account under a retirement plan recognized by the Internal Revenue Service, including IRAs, employer retirement plans, and retirement plans for self-employed individuals, is not considered in determining net family assets. Any income earned on the funds while stored in such a retirement account is not considered actual income from assets. However, any distribution of periodic payments from the retirement account is considered income at the time it is received by the family (§ 5.609(b)(26)).

Scenario

Prior quarter ending balance of 401(k) account: $157,500

Prior quarter yield: 5 percent ($7,500)

Distributions made to family: $12,000 in prior year, same amount is anticipated to be received this year.

Result: In this example, the family's income reexamination will not include the 401(k), because the value of the 401(k) and the earnings will be considered neither net family assets nor income to the family; however, the family's income reexamination will include the $12,000 in distributions (unearned income) which has been paid from the retirement account in increments of $1,000 monthly to the family.

Example F4: Civil Rights Settlements

Background: A civil rights settlement, regardless of how the settlement is paid (lump sum or several distributions), is excluded from annual income; however, the amounts would be considered part of net family assets, if held in a savings account, revocable trust, or in some other asset that is not excluded from the definition of net family assets.

Scenario

Jessica receives a civil rights settlement in the amount of $20,000, because she was not provided a reasonable accommodation. Jessica deposits the $20,000 into her savings account, which already contains $5,000, and earns 0.5 percent interest annually. Total civil rights settlement received: $20,000 (excluded from income under § 5.609(b)(25)) Value of savings account: $25,000 (which includes the $20,000 settlement) Actual income earned from savings account: $25,000 x 0.005 = $125 included in annual income
Result: In this example, the family's income reexamination will not include the amount received from the civil rights settlement, because the funds are not considered income under § 5.609(b)(25). However, the value of the savings account where the settlement was deposited will be used in the calculation of net family assets, and the actual income earned from interest accrual (as self-certified by the family) will be included in the family's annual income.

Example F5: Life Insurance

Background: The cash value of life insurance policies that are available to the participant before death are included in net family assets (e.g., the surrender value of a whole life policy or a universal life policy). Net family assets will not include the value of term life insurance, which has no cash value to the individual before death. **Scenario A:** The Johnson family has a whole life insurance policy with a face value of $100,000 and a surrender value of $30,000. Net family assets will include $30,000 for the life insurance policy. The Johnson's family policy also pays an annual dividend of $100. This will be included as actual income. **Scenario B:** The Dexter family has a term life insurance policy with a face value of $100,000 payable upon death. The total amount included in the family's net family assets for this insurance policy will be $0.

F.5 Passbook Rate

Regulation: 24 CFR § 5.609(a)(2)

Summary: HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis. PHAs/MFH Owners must use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed $50,000 (a figure that is annually adjusted for inflation). The HUD-published passbook rate will be posted to a dataset on the HUD User Web site, alongside annual inflationary adjustments (see Attachment H).

To determine the passbook rate for the next calendar year, HUD will average the most recent three months of FDIC updates to the National Deposit Rate for savings accounts, rounded to the nearest hundredth of 1 percent. In order to ensure updated passbook rates may be used for reexaminations with an effective date of January 1, HUD will calculate the update in July each year, using FDIC data from April, May, and June for publication on HUD User not later than September 1.

For 2024, the passbook rate will be 0.40 percent. Below is an explanation of how the passbook rate was calculated for 2024. For reexaminations that occur after January 1, 2024, but before the date on which the PHA/MFH Owner implements the new passbook rate, PHAs may continue to set their own passbook rates, and MFH Owners must continue to use the 0.06 percent passbook rate. PHAs may also choose to implement the 2024 HUD passbook rate before complying with HOTMA as they have the flexibility to set their own passbook rate.

Table F3: Calculation of Passbook Rate for 2024

FDIC Monthly Update, Date of Publication	National Deposit Rate, Savings Accounts
4/17/2023	0.39 percent
5/15/2023	0.40 percent
6/20/2023	0.42 percent
HUD Passbook Rate (average of 3 months of FDIC National Deposit Rates)	**0.40 percent**

PHA/MFH Owner Discretion: None. PHAs were previously permitted to set their own passbook rates within a HUD-published range; effective with the final rule, PHAs/MFH Owners will be required to use the HUD-published passbook rate. The final rule supersedes Notice H 2016–01 (Passbook Saving Rate Effective February 1, 2016).

F.6 Actual and Imputed Income from Assets

Regulation: 24 CFR § 5.609(a)(2)

Summary: Actual income and imputed income are treated as described below.

F.6.a Actual Income

Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR § 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The following examples illustrate how to calculate actual income from assets.

Example F6: Actual Asset Income from an Asset Excluded from Net Family Assets

Background: Eugene Park owns a checking account with $3,500 that earns 0 percent interest. He also has a savings account with a balance of $10,000 for which he expects to earn $300 in annual interest. Mr. Park has no other assets. Because those assets are classified as non-necessary personal property, and their combined value of $13,500 does not exceed $50,000, the combined value of all non-necessary personal property is excluded from the calculation of net family assets (see paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice). The total value of Eugene Park's net family assets is $0, and $300 is included in annual income.

Scenario

Total value of assets: $3,500 + $10,000 = $13,500

Net family assets: $0.00 (total value of assets is less than $50,000, therefore the value is excluded from net family assets)

Result: Actual income from assets (must be included in the calculation of annual income for Eugene Park): $300 ($0 from checking account + $300 from savings account)

Example F7: Calculating Net Family Assets and Actual Asset Income when Net Family Assets Exceed $50,000 (As Adjusted)

Background: Sherry McNeil received a federal tax refund of $1,200 and deposited the refund into her checking account. At the time of her annual reexamination six months later, the account had a balance of $10,000 and earns 0-percent interest. Sherry also owns a stock portfolio with a verified value of $45,000. The stocks earned $405 in cash dividends last year, which Sherry expects to earn again in the coming year.
Scenario Total value of assets: $55,000 ($10,000 + $45,000) Net family assets: $53,800 ($55,000 – $1200) (tax refund received in the last 12 months is excluded from net family assets under § 5.603(b)(3)(xi).) Because the total value of Sherry's non-excluded assets exceeds $50,000, this value ($53,800) is included as net family assets and must be confirmed via third-party verification. Actual Income from Checking Account: $0 earned ($10,000 x 0 percent) Actual Income from Stock Portfolio: $405 earned in dividends last year on $45,000
Result: Total actual income from assets (must be included in the calculation of annual income for Sherry McNeil): $405 ($0 + $405)

F.6.b Imputed Income

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

- The value of net family assets exceeds $50,000 (as adjusted for inflation);
- The specific asset is included in net family assets; and
- Actual asset income cannot be calculated for the specific asset.

Imputed asset income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate (see Table F3 above). If the actual income from assets can be computed for some assets but not all assets, then PHAs/MFH Owners must add up the actual income from the assets, where actual income can be calculated, then calculate the imputed income for the assets where actual income could not be calculated. After the PHA/MFH owner has calculated both the actual income and imputed income, the housing provider must combine both amounts to account for income on net family assets with a combined value of over $50,000.

When the family's net family assets do not exceed $50,000 (as adjusted for inflation), imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets. When actual income for an asset — which can equal $0 — can be calculated, imputed income is not calculated for that asset.

Example F8: Combining Actual and Imputed Asset Income

Background: The Jorgensen family owns a small piece of vacant land with a cash value of $25,000. The family also owns a savings account with a verified balance of $55,000, with an interest rate of 0 percent. The family's total net assets are $80,000. The PHA/MFH Owner can calculate the actual income of the savings account as $0, as seen below. The PHA/MFH Owner is unable to calculate the actual income earned for the property owned by the family, because the property neither generates any income for them nor could an income amount be computed as a matter of interest or dividend earnings. Therefore, imputed asset income for the real property must be calculated. The passbook savings rate in effect is 0.10 percent.
Scenario Actual Income from savings account: $55,000 x 0 percent = $0 actual income of savings account Imputed income from family's property: $25,000 x 0.001= $25 imputed income
Result: Total asset income (must be included in the calculation of annual income for the Jorgensen family): $25 ($0 + $25)

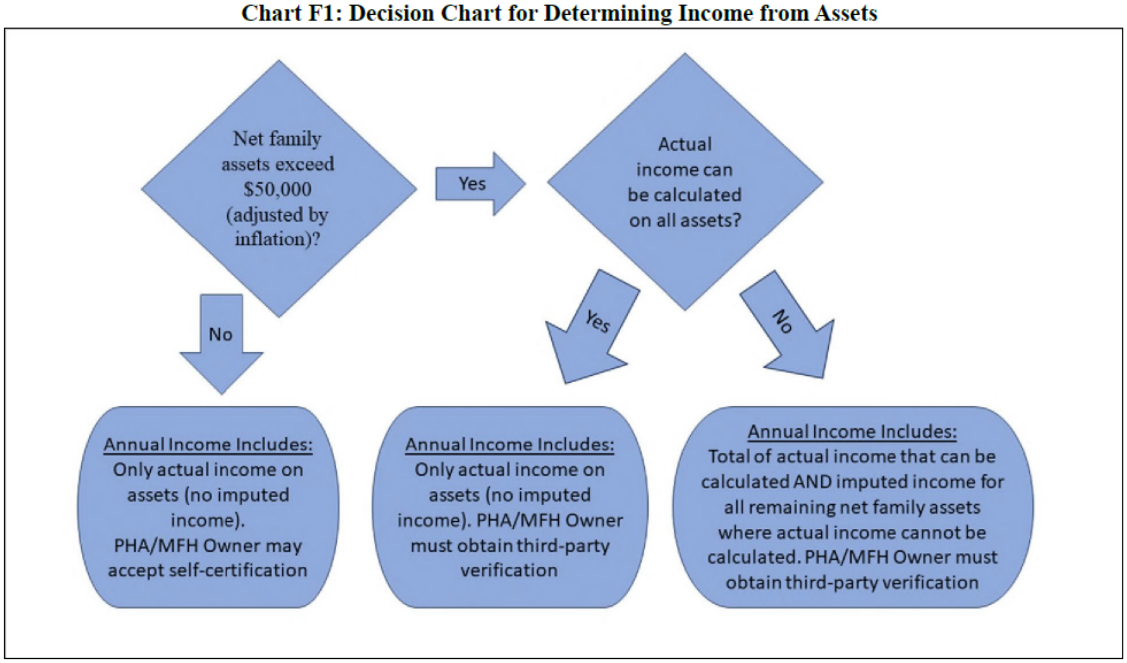
PHAs/MFH Owners should not conflate an asset with an actual return of $0 (as in the example above), with an asset for which an actual return cannot be computed, such as could be the case for some non-financial assets that are items of nonnecessary personal property. If the asset is a financial asset and there is no income generated (for example, a bank account with a 0 percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

Example F9: Imputing Income when Actual Income Cannot Be Calculated

Background: The Conrad family owns a recreational boat with a Kelley Blue Book value of $15,000. They also own a checking account with $10,000 that earns 0 percent interest and a savings account with $30,000 that earns 3 percent interest, putting their net family assets value at $55,000. No actual returns on the boat can be computed, however actual income can be calculated for the savings account. The passbook savings rate in effect is 0.10 percent.
Scenario Actual income from assets: $900 (($10,000 x 0 percent) + ($30,000 x 0.03)) Imputed income from assets: $15 ($15,000 x 0.001)
Result: Total income from assets (must be included in the calculation of annual income for the Conrad family): $915 ($900 + $15)

The following chart illustrates different net family asset scenarios and whether to include actual and/or imputed assets in the family's annual income determination.

Chart F1: Decision Chart for Determining Income from Assets



PHA/MFH Owner Discretion: None.

F.7 Self-Certification of Net Family Assets Equal to or Less Than $50,000 (as adjusted for inflation)

Regulations: 24 CFR §§ 5.603; 5.609; 5.618; 5.659(e); 882.515(a); 882.808(i)(1); 891.105; 891.655; 960.259(c)(2); and 982.516(a)(3)

Summary: PHAs/MFH Owners may determine net family assets based on a selfcertification by the family that the family's total assets are equal to or less than $50,000, adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and/or reexamination. PHAs/MFH Owners are not required to obtain third-party verification of assets if they accept the family's self-certification of net family assets. When PHAs/MFH Owners accept self-certification of net family assets at reexamination[F4], the PHA/MFH Owner must fully verify the family's assets every three years.

PHAs/MFH Owners may follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year.

The family's self-certification must state the amount of income the family anticipates receiving from such assets. The actual income declared by the family must be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b). PHAs/MFH Owners must clarify, during the self-certification process, which assets are included/excluded from net family assets.

[F4] See 24 CFR § 5.659(e); 960.259(c)(2); 982.516(a)(3).

PHAs/MFH Owners may combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

Example F10: Self-Certification of Net Family Assets

We know from Example F1 that the Cross family's net family assets are $0. In this case, the checking account earns 0.07 percent interest annually.

Cross Family's Personal Property

Item	Estimated Value	Type	Amount to be Considered as Non-Necessary Personal Property
Checking account	$5,000	Non-necessary personal property	$5,000
Ring (engagement ring)	$3,000	Necessary personal property	$0
Recreational boat	$15,000	Non-necessary personal property	$15,000
		Total Non-necessary personal property	$20,000

Calculation of Cross Family's Total Net Assets

Asset	Total to be considered in Net Family Assets	Anticipated Income
Non-necessary Personal Property (Checking Account)	$0	$3.50
Real Property	N/A	N/A
Total:	**$0**	**$3.50**

The PHA/MFH Owner may accept a self-certification of assets from the Cross family if the PHA/MFH Owner has a policy to do so (see paragraph below this example for PHA/MFH Owner Discretion on accepting selfcertification). The self-certification must include any anticipated income from assets. In this example, if the PHA/MFH Owner is accepting a self-certification of assets, then the calculations above would not need to be included on the self-certification form. Only the total anticipated income from assets must be included on the form.

Note that in this instance, even though the checking account is excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed $50,000), the family must report actual asset income from the checking account (in this case, $3.50).

PHA/MFH Owner Discretion: PHAs/MFH Owners are not required to adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below $50,000, adjusted annually for inflation. PHAs/MFH Owners who choose not to accept self-certifications of assets must verify all families' assets on an

annual basis. Third-party verification of assets is required when net family assets exceed $50,000, adjusted annually by HUD.

Accepting a family's self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a selfcertification of assets at admission, PHAs/MFH Owners are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance.

PHAs/MFH Owners must include in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable, whether and when they accept a self-certification of assets equal to or less than $50,000, which amount will be adjusted annually by HUD. See Attachment H (Inflationary Adjustments) of this notice for more information.

ATTACHMENT G: TOPIC: INCOME EXCLUSIONS

Regulations

24 CFR §§ 5.609(b)(4)–(5); 5.609(b)(7)–(10); 5.609(b)(14)–(15); 5.609(b)(17); 5.609(b)(19)–(24); 5.609(b)(24)(i)–(vii); 5.609(b)(25); 5.609(b)(27)–(28); 5.611; 891.105 and 891.655

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

The section below provides descriptions and clarifying information for new and updated income exclusions referenced in 24 CFR § 5.609(b). Please note that this section does not address all income exclusions listed in 24 CFR § 5.609(b) but only those that are newly added or updated by the final rule.

PHAs/MFH Owners must revise their interview guides and individual verification forms to ensure that adequate information will be collected to make appropriate income exclusion determinations.

Subtopics

G.1 Nonrecurring Income

Regulation: 24 CFR §§ 5.609(b)(24) and CFR 891.105

Summary: The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts), but it provides a narrower definition of excluded income in contrast to the former broad exclusion of temporary, nonrecurring, or sporadic income.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, an increasing number of cities and states are piloting guaranteed income

programs that have discrete beginning and end dates. This income can be excluded as nonrecurring in the final year of the pilot program. For example, for an annual reexamination effective 2/1/2024, guaranteed income that will be repeated in the coming year but will end before the next reexamination on 2/1/2025 will be fully excluded from annual income.

Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

The following list of exclusions is codified at 24 CFR § 5.609(b)(24) as nonrecurring income. Please note that the list is not exhaustive:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment;
- Direct federal or state economic stimulus payments;
- Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received;
- Amounts directly received by the family as a result of federal refundable tax credits or federal tax refunds at the time they are received;
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding, baby shower, or anniversary gifts);
- In-kind donations (e.g., food, clothing, or toiletries received from a food bank or similar organization); and
- Lump-sum additions to net family assets (e.g., lottery winnings, contest winnings, etc.).

PHAs/MFH Owners may accept a self-certification from the family stating that the income will not be repeated in the coming year.

Example G1: Recurring and Nonrecurring Income

Scenario A: Non-recurring earned income excluded from annual income: Justin Clark worked for four months over the past year for a company that has since gone out of business. During the Clark family's reexamination interview, the PHA/MFH Owner asks Justin whether he expects to work for the company again in the coming year. Justin provides proof that the company went out of business. The PHA/MFH Owner must exclude Justin's earned income received from the company that went out of business from the family's annual income.

Scenario B: Recurring earned income included in annual income: Ana Johnson works as an independent information technology (IT) contractor during various times of the year, when her clients require additional IT contract support. Ana reasonably believes that she will be contracted again the following year based on discussions with her clients. The PHA/MFH Owner must include the income that Ana earns as an IT contractor in the family's annual income.

Scenario C: Guaranteed Basic Income (GBI) excluded from annual income: Lucretia Jones reports at her upcoming annual reexamination effective on 5/1/24 that her GBI program will be ending on 1/31/25. The

PHA/MFH Owner excludes this income because the programs will stop before the next annual reexamination on 5/1/25. This income must be excluded, because there is a set term for the program, and the payments will not be repeated beyond the coming year, which is the final year of a GBI program.

Scenario D: Research stipend included as annual income: Lillian Gonzalez reports at the annual reexamination that will be effective on 5/1/24 that she receives monthly payments for participation in a research project that is expected to last for 18 months and will end on 9/30/25. The PHA/MFH Owner includes this as income because the amounts will be received through the next annual reexamination on 5/1/25. For the 5/1/25 annual reexamination, the family provides a letter stating that the income will end on 9/30/25, so the PHA/MFH Owner will exclude the income received after the 5/1/25 annual reexamination.

PHA/MFH Owner Discretion: None.

G.1.a Nonrecurring Income: Temporary U.S. Census Bureau Employment

Regulation: 24 CFR § 5.609(b)(24)(i)

Summary: Payments from the U.S. Census Bureau for employment relating to the decennial census or the American Community Survey lasting no longer than 180 days and not culminating in permanent employment are excluded from annual income. However, it should be noted that any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.

PHA/MFH Owner Discretion: None.

G.1.b Nonrecurring Income: Economic Stimulus or Recovery Payments

Regulation: 24 CFR § 5.609(b)(24)(ii)

Summary: Direct federal or state payments intended for economic stimulus or recovery are excluded from annual income.

HUD will continue to advise PHAs/MFH Owners of which payments are considered economic stimulus or recovery payments for the purposes of income calculation.

PHA/MFH Owner Discretion: None.

G.1.c Nonrecurring Income: State Tax Refunds

Regulation: 24 CFR § 5.609(b)(24)(iii)

Summary: Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.d Nonrecurring Income: Federal Tax Refunds

Regulation: 24 CFR § 5.609(b)(24)(iv)

Summary: Amounts directly received by the family as a result of federal refundable tax credits and federal tax refunds at the time they are received are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.e Nonrecurring Income: Gifts Regulation:

24 CFR § 5.609(b)(24)(v)

Summary: Gifts for holidays, birthdays, or other significant life events or milestones (e.g., weddings, baby showers, anniversaries) are excluded from annual income.

Example G2: Gifts for Holidays, Birthdays, or Other Significant Life Events or Milestones

Mariah Smith received a check for $250 on her 25th birthday from her favorite aunt and $30 from her cousin. These gifts are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.f Nonrecurring Income: In-Kind Donations

Regulation: 24 CFR § 5.609(b)(24)(vi)

Summary: Non-monetary in-kind donations, such as food or toiletries, received from a food bank or similar organization are excluded from annual income. When calculating annual income, PHAs/MFH Owners are prohibited from assigning monetary value to non-monetary in-kind donations received by the family from a food bank or similar organization.

Non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income. See (24 CFR § 5.609(b)(24)).

Example G3: In-Kind Donations

Jonas Crandall receives a basket weekly from the local food bank that includes both food and toiletries. Because this is an in-kind donation from the local food bank, the PHA/MFH Owner must not include the basket items in the calculation of annual income.

PHA/MFH Owner Discretion: None.

G.2 Lump-Sum Additions to Net Family Assets

Regulation: 24 CFR § 5.609(b)(24)(vii)

Summary: Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings, are excluded from annual income. These amounts may count toward net family assets in accordance with 24 CFR § 5.603.

Example G4: Lump-Sum Additions to Net Family Assets

Scenario A: Trevor Lucky bought 10 lottery tickets and discovered that one of the tickets won Trevor $1,000. Trevor reported his winnings as part of an interim reexamination. The PHA/MFH Owner determined that the lottery winnings are a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation. **Scenario B:** Logan fundraises $5,000 online to help pay for personal expenses (e.g., "Go Fund Me"). The PHA/MFH Owner verified with Logan that this was a one-time solicitation for donations of cash and that Logan does not intend for this to be a recurring source of income. The $5,000 is a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Scenario C: At the next annual reexamination, the PHA/MFH Owner determines that Logan solicited for donations online a second time and raised an additional $4,500. Again, Logan certified that he does not intend for this to be a recurring source of income, but, because the PHA/MFH Owner can establish a pattern, the $4,500 is **not** considered a lump-sum addition to net family assets and **should** be included in the annual income calculation.

PHA/MFH Owner Discretion: None.

G.3 Income Earned on Amounts Placed in a Family's Family Self Sufficiency (FSS) Account

Regulation: 24 CFR § 5.609(b)(27)

Summary: Income earned on amounts placed in a family's FSS account is excluded from the family's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.4 Income of Live-in Aides, Foster Children, and Foster Adults

Regulation: 24 CFR § 5.609(b)(8)

Summary: Income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603 is excluded from the family's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.5 Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments

Regulation: 24 CFR § 5.609(b)(4)

Summary: Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments, are excluded from annual income.

This income exclusion also applies to Kinship Guardian Assistance Payments (KinGAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.

PHA/MFH Owner Discretion: None.

G.6 Insurance Payments or Settlements

Regulation: 24 CFR § 5.609(b)(5)

Summary: Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Example G5: Insurance Payments or Settlements

Bethanne Williams received a settlement from her insurance company in the amount of $2,500 because of a car accident. Bethanne's car accident settlement payment is excluded from annual income.

Example G6: Workers' Compensation Received In Lieu of Wages

Tobias Reynolds was injured in a work accident. He is receiving bi-weekly workers' compensation payments. These amounts are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.7 Civil Action Recoveries or Settlements

Regulation: 24 CFR § 5.609(b)(7)

Summary: Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a person with disabilities are excluded from annual income. Any amounts recovered are excluded irrespective of whether they are received periodically or in a lump sum payment.

Example G7: Civil Action Recoveries or Settlements

Jacob Mitchell became a person with disabilities due to a construction site accident. He received $60,000 from a civil negligence case. The $60,000 received by Jacob is excluded from annual income.

PHA/MFH Owner Discretion: None.

G.8 Earned Income of Dependent Full-Time students

Regulation: 24 CFR § 5.609(b)(14)

Summary: Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611 is excluded from annual income. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This means that the first $480 of the income earned by dependent full-time students will be included in the family's calculation of annual income.

The dependent deduction will be adjusted annually in accordance with the (CPI–W). See Attachment H. Full-time dependent students are eligible to receive both the $480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA/MFH Owner Discretion: None.

G.9 Adoption Assistance Payments Regulation:

24 CFR § 5.609(b)(15)

Summary: Adoption assistance payments in excess of $480 per adopted child are excluded from the family's calculation of annual income. This amount will be adjusted annually in accordance with the CPI–W. See Attachment H.

All dependents, including adopted family members, are eligible to receive the $480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA/MFH Owner Discretion: None.

G.10 Veterans Regular Aid and Attendance

Regulation: 24 CFR § 5.609(b)(17)

Summary: Payments to veterans in need of regular aid and attendance are excluded from annual income under 38 U.S.C. 1521. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

Certain veterans are eligible for "aid and attendance" payments from the Veterans Affairs (VA) Administration. These payments are distinct from payments made to veterans under other VA programs, including the Veterans Pension program. PHAs/MFH Owners should carefully review any income documentation provided by the family, because many types of VA income, including the Veterans Pension and the VA Survivors Pension, are included in annual income.

PHA/MFH Owner Discretion: None.

G.11 Home-Based Care Payments for a Family Member(s) with a Disability(ies)

Regulation: 24 CFR § 5.609(b)(19)

Summary: Payments made by or authorized by a state Medicaid agency (including through a managed-care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit are excluded from the calculation of the family's annual income. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through a managed-care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

A family member with a disability qualifies for this income exclusion. Amounts received may be intended for items such as services, equipment, and compensation provided to a family member. The payments are excluded from income as long as the amounts are provided to enable a family member with a disability to remain in the family's assisted unit. Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.

PHA/MFH Owner Discretion: None.

G.12 Loan Proceeds

Regulation: 24 CFR § 5.609(b)(20)

Summary: Loan proceeds (the net amount disbursed by a lender to a borrower under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family to finance the purchase of a car) are excluded from annual income. The

loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable.

Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

PHA/MFH Owner Discretion: None.

G.13 Certain Payments Received by Tribal Members

Regulation: 24 CFR § 5.609(b)(21)

Summary: Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code (IRC) or other federal law, are excluded from annual income.

Generally, payments received by tribal members in excess of the first $2,000 of percapita shares are included in a family's annual income for purposes of determining eligibility. However, as explained below, payments made under the Cobell Settlement, and certain per-capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by this notice.[G1]

The following two subsections describe the circumstances when settlement payments paid to Tribal members are excluded from annual income through federal law or as required under the IRC.

G.13.a Cobell Settlement

In *Elouise Cobell et al. v. Ken Salazar et al.*,[G2] a class of individual members of Indian tribes filed suit against the United States for its failure to adequately manage certain trust assets. The settlement was authorized pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). In accordance with the Act, lump-sum or periodic payments received by an individual Indian under the Cobell Settlement are statutorily excluded from counting toward a family's annual income, or as a resource, for purposes of determining initial eligibility or level of HUD assistance, for a period of one year from the time of receipt of that payment. This exclusion from income applies to all HUD programs and is included in the

[G1] A payment received by a tribal member from the tribe for distribution of Indian gaming profits is not a per-capita payment within the meaning of the Per Capita Distribution Act and does not qualify for income exclusion. If a family member who is a tribal member receives the Internal Revenue Service (IRS) Form 1099–MISC, Miscellaneous Income, from the tribe for reporting Indian gaming profits, then this payment must be counted toward the family's annual income.

[G2] https://naturalresources.house.gov/uploadedfiles/cobellsettlementagreement_120709.pdf.

list of federally mandated exclusions from annual income that HUD periodically publishes in the *Federal Register*.[G3]

G.13.b Tribal Trust Settlements

The United States has entered into settlements with a number of federally recognized Indian tribes, settling litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources the United States holds in trust for the benefit of the tribes. In some circumstances, proceeds from these settlements have resulted in, or will result in, per-capita payments to Indian families by Indian tribes. To date, at least 70 Indian tribes have settled Tribal Trust cases.

24 CFR 5.609(b)(21) requires that certain payments received by Tribal members, to the extent that such payments are excluded from gross income under the IRC, must be excluded from family income. The Internal Revenue Service (IRS) issued guidance in IRS Notice 2013–1, "Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases," advising that per-capita payments made from the proceeds of the enumerated Tribal Trust Settlements are excluded from the gross income of the members of the tribe receiving the per-capita payments under 25 USC 117b(a) and 25 USC 1407.

IRS Notice 2013–1 also clarifies, however, that per-capita payments that exceed the amount of the Tribal Trust Settlement proceeds and that are made from an Indian tribe's private bank account in which the tribe has deposited the settlement proceeds are included in the gross income of the members of the tribe receiving the per-capita payments. For example, if an Indian tribe receives proceeds under a settlement agreement, invests the proceeds in a private bank account that earns interest, and subsequently distributes the entire amount of the bank account as per-capita payments, then a member of the tribe excludes from gross income that portion of the member's per-capita payment attributable to the settlement proceeds under 25 USC 117b(a) and 25 USC 1407 and must include the remaining portion of the per-capita payment in gross income in accordance with the guidance provided in IRS Notice 2013-1. Per-capita payments not excluded from gross income in accordance with the IRC should be reviewed for potential exclusion as "nonrecurring income" (24 CFR § 5.609(b)(24)) or as "lump sum additions to net family assets" (24 CFR § 5.609(b)(24)(vii)).

The IRS last updated the list of Indian tribes who have entered into Tribal Trust Settlements with the United States in 2013,[G4] and for whom per-capita Tribal Trust payments are excluded from gross income. PHAs/MFH Owners should ensure they are reviewing the current list of Tribal Trust Settlements when determining whether a family's per-capita proceeds should be excluded from annual income.

[G3] Last published on 5/20/2014: https://www.federalregister.gov/documents/2014/05/20/2014-11688/federallymandated-exclusions-from-income-updated-listing.

[G4] See IRS Notice 2013-55, available at: http://www.irs.gov/pub/irs-drop/n-13-55.pdf.

Example G8: Tribal Trust Settlements

Scenario A: An Indian tribe received $1.2 million from a Tribal Trust Settlement. The Indian tribe immediately distributed per-capita payments to its members. The Tribal Trust Settlement is treated in accordance with the guidance in IRS Notice 2013–1 and excluded from adjusted gross income under 25 USC 117b(a) and 25 USC 1407. Therefore, the per-capita payments to members are excluded from annual income.

Scenario B: An Indian tribe received $10 million from a Tribal Trust Settlement. The Indian tribe invested the settlement funds at a private institution. After a year, the Indian tribe distributed the settlement funds plus earned interest to its members. IRS Notice 2013–1 provides guidance that per capita payments that exceed the amount of the Tribal Trust case settlement proceeds and that are made from an Indian tribe's private bank account in which the tribe has deposited the settlement proceeds are not excluded from adjusted income under 25 USC 117b(a) and 25 USC 1407, so the interest payments to members are not excludable from annual income under 24 CFR 5.609(b)(21). The PHA/MFH Owner must determine whether the per-capita interest payments to members should be included in the family's income or excluded from income under a different regulatory provision such as 24 CFR 5.609(b)(24).

Please note that the first $2,000 of per capita payments are also excluded from assets, except when these per capita payments are in excess of the settlement amount and are included (IRS Notice 2013-1, 25 USC 117b(a), and 25 USC 1407).

PHA/MFH Owner Discretion: None.

G.14 Exclusions from Other Federal Statutes

Regulation: 24 CFR § 5.609(b)(22)

Summary: This exclusion applies to all amounts that HUD is required by federal statute to exclude from annual income. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

PHA/MFH Owner Discretion: None.

G.15 Replacement Housing Gap Payments

Regulation: 24 CFR § 5.609(b)(23)

Summary: Replacement housing "gap" payments made in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA"), as implemented by 49 CFR Part 24, are excluded from annual income. "Gap" payments offset the increased out-pocket costs of displaced persons who move from one federally subsidized housing unit to another federally subsidized housing unit.

However, replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

Replacement housing "gap" payments should cover a minimum of 42 months of tenancy at the new unit.

Example G9: Replacement Housing Gap Payments

The Patel family was displaced from their Project-Based Voucher unit as the result of a HUD-funded acquisition and rehabilitation of the property that will last longer than one year. The family subsequently obtained a Housing Choice Voucher (HCV) and moved into a home where the owner accepts HCVs. The Patels' rent and utility expenses are $100 higher in their new unit. The Patels receive replacement housing "gap" payments of $100 intended to cover the difference between the Patels' former rent and utility expenses in their Project-Based Voucher unit and their current rent and expenses under their HCV assistance. The "gap" payments must be excluded from the family's annual income for the period during which gap payments are provided under the URA (42 months) or the increased cost of rent and utilities is reduced or eliminated, whichever is shorter.

PHA/MFH Owner Discretion: None.

G.16 Student Financial Assistance Regulation:

24 CFR § 5.609(b)(9)

Summary: The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

The two types of student financial assistance applicable to MFH and PIH programs are described below.

G.16.a Amounts Received Under Section 479B of the Higher Education Act (HEA) of 1965, as amended (20 U.S.C. 1087uu)

Section 479B provides that certain types of student financial assistance are to be excluded in determining eligibility for benefits made available through federal, state, or local programs financed with federal funds. The types of financial assistance listed below are considered 479B student financial assistance programs; however, this list is not exhaustive, and 479B will be updated as of July 1, 2024.

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Student financial assistance received under the Bureau of Indian Education;
- Higher Education Tribal Grant;
- Tribally Controlled Colleges or Universities Grant Program;
- Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

G.16.b Other Student Financial Assistance

Other student financial assistance includes grants or scholarships received from the following sources:

- The Federal government;
- A state (including U.S. territories), Tribe, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Other student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA); or
- Gifts, including gifts from family or friends.

Note: Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. The PHA/MFH Owner must verify that the other student financial assistance is for the student's actual covered costs.

The following sections describe the treatment of the two above-described types of student financial assistance by program type.

G.16.c Non–Section 8 Programs Subject to this Notice

All assistance received under 479B of the HEA by students participating in the Public Housing or non–Section 8 programs administered by MFH is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income. Prior to the final rule, the full amount of student financial assistance paid directly to the student or to the educational institution was excluded.

Actual covered costs include: tuition, books, supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and fees required and charged to a student by an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1087uu)). For a student who is not the head of household, cohead, or spouse, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. This formula is illustrated in chart 2, below.

Chart G1: Steps in Calculating Amount of Other Student Financial Assistance

Step 1: Subtract the **amount received under section 479B of the HEA** from the **actual covered costs** to arrive at the **amount of actual covered costs exceeding section 479B assistance**. If the amount of assistance received under section 479B of the HEA exceeds the actual covered costs and the student did not receive any other student financial assistance, then step 2 is not necessary; none of the student financial assistance will be included in income, because the assistance received under section 479B of the HEA is excluded from income for students participating in the Public Housing and non–Section 8 programs administered by MFH. **Step 2:** Subtract the **actual covered costs exceeding section 479B assistance** from the amount of **other student financial assistance** to arrive at the amount of **student financial assistance included in income**. Step 2 requires the amount of other student financial assistance received by the student to be subtracted from the amount of actual covered costs paid by other means. If the resulting number in Step 2 is a positive amount, then that is the amount that should be included in the family's income. If the resulting number in Step 2 is zero or a negative amount, then there will be no student financial assistance included in income (i.e., all student financial assistance is excluded from annual income).

The following examples illustrate the treatment of student financial assistance for Public Housing and non–Section 8 programs:

Example G10: Treatment of Student Financial Assistance in Non–Section 8 Programs

Juan is a full-time student, and he received the following grants and scholarships to cover his first year of college: Federal Pell Grant: $25,000; University Scholarship: $15,000; Rotary Club Scholarship: $3,000.	
Total assistance received under 479B of HEA: $25,000 (Federal Pell Grant) Total other student financial assistance received: $18,000	Juan's actual covered costs: $28,000
Step 1: Determine amount of actual covered costs exceeding section 479B assistance. $28,000 (actual covered costs) **minus** $25,000 (total assistance received under 479B of HEA) **equals** $3,000	Step 2: Determine amount of student financial assistance to include in income. $18,000 (other student financial assistance received) **minus** $3,000 (actual covered costs exceeding section 479B assistance) **equals** $15,000 (if negative, then use $0)
Amount of student financial assistance included in Juan's income: $15,000	

Example G11: Treatment of Student Financial Assistance in Non–Section 8 Programs

Sarah is a part-time student, and she received the following amounts to cover her first year of college: Federal Perkins Loan: $2,000; Scholarship from Local Car Dealership: $500; Gift from Aunt Lois: $1,000. The $1,000 is a gift from Aunt Lois, so it is not considered student financial assistance, and it is not considered in this calculation. Note: If Aunt Lois gives Sarah the $1,000 gift as a one-time, lump-sum payment, it would be excluded from income under 24 CFR § 5.609(b)(24)(vii).

Total assistance received under 479B of HEA: $2,000 (Federal Perkins Loan) Total other student financial assistance received: $500 Total non-student financial assistance: $1,000 Total student financial assistance: $2,500	Sarah's actual covered costs: $3,000
Step 1: Determine amount of actual covered costs exceeding section 479B assistance. $3,000 (actual covered costs) **minus** $2,000 (total assistance received under 479B of HEA) **equals** $1,000	Step 2: Determine amount of student financial assistance to include in income. $500 (other student financial assistance received) **minus** $1,000 (amount of actual covered costs exceeding section 479B assistance) **equals** –$500 (if negative, then use $0)
The amount of student financial assistance received by Sarah is less than her actual covered costs after deducting assistance received under 479B of the HEA and other student financial assistance received, therefore there is no student financial assistance to include in income. Amount of student financial assistance included in Sarah's income: $0	

Example G12: Treatment of Student Financial Assistance in Non–Section 8 Programs

Dante is a full-time student, and he received the following amounts to cover his first year of college: Federal Pell Grant: $9,000; Federal Perkins Loan: $13,000; Local Library Scholarship: $1,000.	
Total assistance received under 479B of HEA: $22,000 (Federal Pell Grant plus Federal Perkins Loan) Total other student financial assistance received: $1,000	Dante's actual covered costs: $16,000
Step 1: Determine amount of actual covered costs exceeding section 479B assistance. $16,000 (actual covered costs) **minus** $22,000 (total assistance received under 479B of HEA) **equals** $–6,000	Step 2: Determine amount of student financial assistance to include in income. Not necessary because Step 1 resulted in a negative amount, so all other student financial assistance would be included in Dante's income
Amount of student financial assistance included in Dante's income: $1,000	

G.16.d Section 8 (Including HCV and 202/8)

There are distinct differences in the treatment of student financial assistance between the Section 8 program and the Public Housing and non–Section 8 programs administered by MFH due to language in the annual appropriations acts. Section 210(b) of the Consolidated Appropriations Act, 2023,[G5] requires that, "for purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition and any other

required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children." HUD interprets that "a person over the age of 23" is 24 years old.

While the Consolidated Appropriations Act, 2023, language is limited to federal fiscal year 2023, this does not rule out the possibility that similar language will be included in future years' appropriations bills. For any funds from a year where HUD's appropriations include this Section 8 student financial assistance limitation, if the student is the head of household, co-head, or spouse and is under the age of 23 or without dependent children, then both the assistance received under 479B of the HEA and other student financial assistance received by the student will be counted as income to the extent that it exceeds the total of tuition and any other required fees and charges.[G6] In contrast, the student financial assistance received by a Section 8 student who is the head of household, spouse, or co-head of household and is over the age of 23 with dependent children will be treated in a manner identical to the student financial aid received by students who participate in the Public Housing and non–Section 8 programs administered by MFH.

During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students defaults to the methodology described above for the Public Housing and non–Section 8 programs administered by MFH.

There are two steps required as part of the calculation for Section 8 students, the first of which is to determine the student's relationship to the household, age, and whether they have dependent children; based on the result of the first step, the second step is to calculate whether any excess student financial assistance should be included in the family's income. If the student is the head of household, cohead, or spouse and is 23 or younger or does not have dependent children, then 479B assistance **will** be part of the total equation (see example G13, below). If the student is over 23 with dependent children, then the calculation will be identical for Public Housing and non–Section 8 MFH students, as described above.

[G5] https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf.

[G6] The definition of tuition and other required fees and charges for Section 8 students is synonymous with the definition of "actual covered costs" described in the previous section for the Public Housing and non–Section 8 programs administered by MFH. For Section 8 students, HUD uses the term "tuition and other required fees" solely to reflect the language in the appropriations bill.

The formula for calculating the excess amounts of financial assistance included in annual income is a one-step process of subtracting the total tuition plus required fees and charges from the total student financial assistance from all sources The one-step calculation is illustrated in chart 3, below.

Chart G2: Formula for Calculating Excess Amounts of Financial Assistance

Subtract total tuition plus required fees and charges from the total student financial assistance from all sources to arrive at excess amount of student financial assistance.
If the excess amount of student financial assistance is a positive number, then include that amount in annual income. If the excess amount of student financial assistance is zero or negative, then do not include that amount in annual income.
If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no excess amounts of student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.

Example G13: Treatment of Student Financial Assistance in Section 8 Programs

Roberto is a 22-year-old full-time student without dependent children. Since Roberto is a Section 8 participant head of household who is not over 23 with dependent children, the PHA/MFH Owner follows the Appropriations Act policy to determine if Roberto receives student financial assistance in excess of tuition from both HEA and other sources. Roberto received the following amounts to cover his first year of college: Federal Pell Grant: $12,000; University Scholarship: $22,000; City Scholarship: $3,000.	
Total assistance received under 479B of HEA: $12,000 (Federal Pell Grant) Total other student financial assistance received: $25,000 Total student financial assistance from all sources: $37,000	Total tuition + required fees and charges: $27,000
Subtract the total cost of tuition + required fees and charges from the total amount of student financial assistance: $37,000 – $27,000 = $10,000	
The total amount of student financial assistance from all sources received by Roberto exceeds the total amount of tuition and required fees and charges.	
Excess student financial assistance: $10,000	
Amount of student financial assistance included in Roberto's income: $10,000	

Example G14: Treatment of Student Financial Assistance in Section 8 Programs

Cedric is a 28-year-old head of household and a full-time student with a 5-year-old daughter and a 9-year-old son who are his dependents. The PHA/MFH Owner will follow the rules under § 5.609(b)(9) (the same as for non–Section 8 programs) as described in the previous section. Cedric received the following amounts to cover his first year of college: Teach Grant: $8,000; Federal Pell Grant: $3,000; College Scholarship: $6,000.	
Total assistance received under 479B of HEA: $11,000 (Teach Grant plus Federal Pell Grant) Total other student financial assistance received: $6,000	Total tuition + required fees and charges: $26,000
Step 1: Determine amount of tuition plus required fees exceeding 479B assistance. $26,000 (total tuition + required fees and charges) **minus** $11,000 (total assistance received under 479B of HEA) **equals** $15,000	Step 2: Determine amount of student financial assistance to include in income. $6,000 (other student financial assistance received) **minus** $15,000 (amount of tuition + required fees and charges exceeding 479B assistance) **equals** –$9,000 (if negative, then use $0)
The amount of other student financial assistance received by Cedric does not exceed the total amount of tuition and required fees and charges.	
Excess student financial assistance: $0	
Amount of student financial assistance included in Cedric's income: $0	

Example G15: Treatment of Student Financial Assistance in Section 8 Programs

Angel is a 38-year-old full time student, head of household, without dependent children. Since Angel does not have dependent children, the Appropriations Act policy does not apply, and the PHA/MFH Owner must include assistance received under 479B of the HEA as part of the excess student financial aid calculation. Angel received the following amounts to cover her first year of college: Perkins Loan: $8,000.	
Total assistance received under 479B of HEA: $8,000 (Perkins Loan)	Total tuition + other fees and charges: $6,200
Determine whether the amount of student financial assistance, including 479B assistance, exceeds the total of tuition + required fees and charges: $8,000 – $6,200 = $1,800	
Excess student financial assistance: $1,800	
Amount of student financial assistance included in Angel's income: $1,800	

PHA/MFH Owner Discretion: None.

G.17 Achieving a Better Life Experience (ABLE) Accounts

Regulation: 24 CFR § 5.609(b)(22)

Summary: ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when calculating income from assets. Distributions from these accounts are also excluded from income.

HUD developed specific guidance on ABLE accounts based on language included in the ABLE Act of 2014. Certain contributions deposited into ABLE accounts are excluded in addition to the above-mentioned exclusions. See *Treatment of ABLE Accounts in HUDAssisted Programs* (Notice H 2019–06/PIH 2019–09).

PHA/MFH Owner Discretion: None.

G.18 Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts and "Baby Bond" Accounts

Regulation: 24 CFR § 5.609(b)(10)

Summary: Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government are excluded from income and net family assets.

PHA/MFH Owner Discretion: None.

G.19 Gross Income from Self-Employment or Operation of a Business

Regulation: 24 CFR §§ 5.609(b)(24) and 5.609(b)(28)

Summary: The gross income received by a family through self-employment, or the operation of a business is excluded from income. Gross income is all income amounts received into the business, prior to the deduction of business expenses. To determine the amount of business or self-employment income included in a family's annual income, the net income of the business must first be determined.

Net income is the "gross income amount minus business expenses" that allows the business to operate.

The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS's regulations.[G7] Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

[G7] 26 CFR § 1.167(b)-1 Straight line method: https://www.ecfr.gov/current/title-26/chapter-I/subchapter-A/part1/subject-group-ECFRc4930337f38ecfd/section-1.167(b)-1.

Example G16: Exclusion of Gross Income from Self-Employment or Operation of a Business

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed $75,000 annually in 2024. BC Lawn Service also incurred a total of $35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the $35,000 in business expenses from the $75,000 gross income, the net income is $40,000, which will be included in Bill's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.20 Elimination of the Earned Income Disregard (EID)

Regulation: 24 CFR § 5.611

Summary: The Earned Income Disregard (EID) will not apply to any family who is not eligible for **and already participating in** the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

Note: The EID policies described above are distinct from similar policies in the Jobs Plus program. Families eligible to receive the Jobs Plus program rent incentive (Jobs Plus Earned Income Disregard (JPEID)) pursuant to the FY2023 Notice of Funding Opportunity (NOFO) or earlier appropriation distributed through prior Jobs Plus NOFOs may continue to receive JPEID under the terms of the NOFO. The JPEID was established by HUD as an alternative requirement to EID for Jobs Plus grantees by waiving section 3(d) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(d)) and § 960.255(b) and (d). For more information about JPEID waivers and alternative requirements, please review the following *Federal Register* notices: 80 FR 13415 (March 13, 2015) and 83 FR 13506 (March 29, 2018).

PHA/MFH Owner Discretion: None.

G.21 Civil Rights Settlements or Judgments

Regulation: 24 CFR § 5.609(b)(25)

Summary: Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income.

Historically HUD has followed a practice of excluding from income civil rights settlements and judgments as lump-sum additions to assets, which would include amounts received as a result of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under nondiscrimination laws. However,

this new exclusion clarifies that even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are excluded. Additionally, this exclusion applies to back pay received by the family pursuant to a civil rights settlement or judgment.

PHA/MFH Owner Discretion: None.

ATTACHMENT H: TOPIC: INFLATIONARY ADJUSTMENTS

Regulations

See table H1, below.

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

HUD will annually publish the eight inflation-adjusted items in the table below no later than September 1, and the updated values will be shared online at the HUD User website. The publication will apply to both MFH and PIH programs. The revised amounts will be effective on January 1 of the following year. The first set of adjustments for inflation will be made effective January 1, 2025.

HUD plans to publish in the *Federal Register* a notice soliciting the public's comment on HUD's methodology for recalculating inflationary adjusted items.

Table H1: Inflationary Adjustment Items

Adjusted Item	Regulatory Reference	Notice Section	Amount Effective on 1/1/2024 (subject to Annual Adjustment)	Rounding Methodology	Applicable Programs
Eligibility restriction on net family assets	24 CFR § 5.618(a)(1)(i)	Attachment A	$100,000	Nearest dollar	Section 8 PBRA, 202/8, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Threshold above which imputed returns must be calculated on net family assets	24 CFR §§ 5.609(a)(2) and (b)(1)	Attachment F	$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod

					Rehab, Section 8 Mod Rehab SRO
Threshold above which the total value of nonnecessary personal property is included in net family assets	24 CFR § 5.603(b) *Net family assets*	Attachment F	$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
The amount of net assets for which the PHA/MFH Owner may accept selfcertification by the family	24 CFR § 5.618(b)(1) 24 CFR § 5.659(e) 24 CFR § 92.203(e)(1) 24 CFR § 93.151(e)(1) 24 CFR § 882.515(a) 24 CFR § 882.808(i)(1) 24 CFR § 960.259(c)(2) 24 CFR § 982.516(a)(3)	Attachment F	$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Mandatory deduction for elderly and disabled families	24 CFR § 5.611(a)(2)	Attachment C	$525	Next lowest multiple of $25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO

Mandatory deduction for a dependent	24 CFR § 5.611(a)(1)	Attachment C	$480	Next lowest multiple of $25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing,
					Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Income exclusion for earned income of dependent full-time students	24 CFR § 5.609(b)(14)	Attachment G	$480	Next lowest multiple of $25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Income exclusion for adoption assistance payments	24 CFR § 5.609(b)(15)	Attachment G	$480	Next lowest multiple of $25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO

HUD will annually publish the recalculated inflationary-adjusted items to HUD's Policy Development and Research Web site, HUD User. The new amounts will become effective January 1 of the following year.

PHAs/MFH Owners must use the adjusted levels post to HUD User for income and asset calculations effective on or after January 1 of the following year. Note that it will be particularly important for PHAs/MFH Owners who begin reexaminations 90 to 120 days in advance of the effective date of the reexamination to update their documents in a timely manner, because several of these figures must be known from the outset of the reexamination. For example, when a PHA/MFH Owner issues a reexamination notice and requests documents from a family, they must be able to provide a form for the self-certification of assets that includes the updated threshold value of net family assets above which the family may not self-certify.

ATTACHMENT I: TOPIC: INTERIM REEXAMINATIONS

Regulations

24 CFR §§ 5.567(c)(1); 882.515(b)(1); 960.257(b)(1); 982.516(c)(1); 891.105; 891.410(g); 891.610(g); and 891.750

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA[I1], SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA/MFH Owner must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA/MFH Owner becomes aware of a change in the family's adjusted income that must be processed in accordance with the final rule. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA/MFH Owner generally should conduct the interim reexamination not longer than 30 days after the PHA/MFH Owner becomes aware of changes in income.

The following subsection focuses on HOTMA's revisions to income reexamination requirements. The final rule changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA/MFH Owner determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in annual adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed. HUD recommends as a best practice that PHAs/MFH Owners maintain documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in an interim reexamination. HUD also recommends reviewing the applicable regulations to ensure that any program-specific reexamination requirements are addressed[I2].

[I1] HUD is applying 24 CFR § 5.657 to 811 PRA families pursuant to Section 2.4(a)(1) of the Rental Assistance Contract (RAC) Part II.

[I2] For example, see 24 CFR § 891.410(g) and § 891.610(g)(3).

I.1 Decreases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(2); 882.515(b)(2); 891.105; 891.410(g)(2);

891.610(g)(2); 960.257(b)(2); and 982.516(c)(2)

Summary: A family may request an interim determination of family income for **any** change since the last determination. However, the PHA/MFH Owner may decline to conduct an interim reexamination of family income if the PHA/MFH Owner estimates that the family's adjusted income will decrease by an amount that is less than 10 percent of the family's annual adjusted income. PHAs/MFH Owners have the discretion to set a lower percentage threshold, in which case that lower percentage threshold must be included in the ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

PHAs/MFH Owners must conduct an interim reexamination of family income when the PHA/MFH Owner becomes aware that a family's annual adjusted income has changed by an amount that the PHA/MFH Owner estimates will result in a decrease of 10 percent or more in annual adjusted income or a lower threshold set by HUD or by a PHA/MFH Owner in their ACOP, Administrative Plan, or Tenant Selection Plan, as applicable. In addition to decreases in family income, increases in deductions may produce a sufficient decrease in adjusted income to support an interim reexamination effective January 1, 2024, or later.

HUD is using its discretion, as authorized by HOTMA, to establish a lower threshold through notice to process interim reexaminations under certain circumstances. Specifically, HUD is requiring PHAs/MFH Owners to apply a 0-percent threshold and to process an interim reexamination when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount. If there is no change/decrease in adjusted income as a result of the decrease in family size, then a non-interim transaction is processed instead of an interim reexamination. This 0-percent threshold for interim reexamination applies only to decreases in family size that result in a **decrease** in adjusted income. If the net effect of the changes in annual adjusted income due to a decrease in family size results in an **increase** in annual adjusted income, then PHA/MFH Owner will process the removal of the household member(s) as a non-interim reexamination transaction **without** making changes to the family's annual adjusted income.

Example I1: Interim Reexaminations / Decreases in Annual Adjusted Income

Scenario A: A family with an annual adjusted income of $9,600 experiences a change in household composition and becomes eligible for two dependent deductions totaling $960, resulting in a 10-percent decrease in the family's adjusted income. The $960 decrease in the family's adjusted income would require an interim reexamination, because the income decrease meets the 10-percent threshold for an interim reexamination.

Scenario B: A family experiences an increase in deductible child-care expenses from $0 to $12,000 annually. Before the change, their annual adjusted income was $40,000. Since the child-care expense deduction results in a greater than 10-percent reduction in annual adjusted income, an interim reexamination is required.

Scenario C: A family with an adjusted income of $9,600 adds a dependent family member with no income. This would result in an adjusted income decrease of $480 due to the dependent deduction. The decrease does not meet the 10-percent threshold of the family's adjusted income, and because this is a family member joining the assisted unit (as opposed to a decrease a family size), the PHA/MFH Owner is not required to conduct an interim reexamination. However, the PHA/MFH Owner has adopted a policy that has decreased the threshold from a

10percent change to a 5-percent change, therefore the decrease would meet the threshold, triggering an interim reexamination.

Scenario D: A family member moved out of the assisted unit. The family's adjusted income prior to the change in household composition was $20,000, but that number decreased to $18,000 when the family member moved out. Since HUD requires PHAs/MFH Owners to process decreases in adjusted income greater than 0 percent due to decreases in family size, the PHA/MFH Owner must process an interim reexamination.

Scenario E: A family member moves into the assisted unit who receives $20,000 in pension income (which is more than 10% of the household's adjusted income). At the same time, the head of household got a new job that increases the household's income by $15,000 per year. The PHA/MFH Owner will process the increase in pension income due to the new household member but will not include the head of household increase in earned income until the next annual reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners may establish a percentage threshold lower than 10 percent of annual adjusted income for processing interim reexaminations due to decreases in a family's annual adjusted income. PHAs/MFH Owners must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, the percentage threshold they will use for conducting interim reexamination decreases of a family's annual adjusted income.

PHAs/MFH Owners **are not permitted** to establish a dollar-figure threshold amount instead of a percentage threshold. PHAs/MFH Owners may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5 percent may be rounded up to 10 percent).

I.2 Increases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(3); 882.515(b)(3); 960.257(b)(3); and 982.516(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: PHAs/MFH Owners must conduct an interim reexamination of family income when the PHA/MFH Owner becomes aware that the family's adjusted income has changed by an amount that the PHA/MFH Owner estimates will result in an increase of 10 percent or more in annual adjusted income or another amount established through a HUD notice, with the following exceptions:

- PHAs/MFH Owners **may not** consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs/MFH Owners may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

Note: Families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA/MFH Owner's policies.

PHAs/MFH Owners **must not** process interim reexaminations for income increases that result in less than a 10-percent increase in annual adjusted income. When the family previously received an interim reexamination for a decrease to annual adjusted income

during the same annual cycle, a PHA/MFH Owner has the discretion to consider or ignore a subsequent increase in **earned** income for the purposes of conducting an interim reexamination. PHAs/MFH Owners must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, if they perform interim reexaminations for **earned** income increases that result in a 10-percent increase in annual adjusted income. If a PHA/MFH Owner has a policy of considering increases in earned income after an interim conducted for a decrease in income, and the family's adjusted income has increased by 10 percent or more, the PHA/MFH Owner must conduct an interim reexamination in accordance with local policies. Conversely, PHAs/MFH Owners that adopt local policies to never consider increases in **earned** income must not perform an interim reexamination.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA/MFH Owner must conduct an interim reexamination. When an increase of any size is reported by a family, it is a recommended best practice for the PHA/MFH Owner to note the reported increase in the tenant file.

Example I2: Interim Reexaminations / Increases in Annual Adjusted Income

Scenario A: The Martinez family's annual reexamination is due on 11/1/2024. The family no longer has childcare expenses for their three children. The family stopped paying for daycare as of 8/31/2024 and reported the change (and certified no other changes to annual household income or expenses) to the PHA/MFH Owner on 9/7/2024, resulting in an estimated 15-percent increase in the family's annual adjusted income. Although 15 percent is well above the 10-percent threshold, the PHA/MFH Owner does not process an interim reexamination, because they have a policy to not process changes reported within three months of the next annual reexamination.

Scenario B: The Allen family had an annual adjusted income of $29,000 as of their last annual reexamination effective 5/1/2024. The family experienced the following changes to income and household composition since 5/1/2024:

- In July, the Allen family's eldest child, Kristina Allen (age 20), starts going to college full-time on a Pell Grant. Kristina is not employed, nor does she receive any other type of student financial assistance. The family now qualifies for a $480 dependent deduction, because full-time students are considered dependents.
- The family reports Kristina's student status to the PHA/MFH Owner, which noted the change in the family's file. The PHA/MFH Owner is not allowed to perform an interim reexamination, because the dependent deduction represents a 1.7-percent decrease in the family's annual adjusted income, and the PHA/MFH Owner did not establish a threshold lower than 10 percent for interim decreases in income.
- In October, the family added an adult family member, Tom Smith, to the household. The new adult family member receives a pension of $275 monthly, or $3,300 annually.

The PHA/MFH Owner determined that the Allen family's new annual adjusted income is $31,820, accounting for both the addition of Tom's pension income and the deduction of the full-time student dependent allowance for Kristina. The Allen family's annual adjusted income increased a total of $2,820, or only 9.7 percent. Since this decrease is below the 10-percent threshold, the PHA/MFH Owner will not conduct an interim reexamination. Instead, they will process a non-interim transaction to add Tom to the family without changing the family's annual adjusted income effective 10/1/2024.

Scenario C: The Nguyen family's last annual reexamination was 4/1/2024. In June 2024, Patrick Nguyen lost his job, and the family's adjusted income fell from $25,000 to $13,000. The PHA/MFH Owner conducted an interim reexamination for the decrease in income. In November 2024, Kelly Nguyen finds a job, and the family's adjusted income rises to $18,000. The PHA/MFH Owner has a policy of considering increases in earned income when an interim reexamination has been performed for a decrease in income. Since the family's adjusted income has

increased by more than 10 percent when including earned income, and the family previously received an interim reduction during the same reexamination cycle, the PHA/MFH Owner will conduct an interim reexamination for the increase.

Scenario D: The Mosberg family had an annual adjusted income of $35,909 based on earned income (and two dependent deductions) as of the last annual reexamination effective 6/1/2024. The family experienced the following changes to income since 6/1/2024:

- In August, Libby reported she received a raise at work, increasing her annual earned income by $2,650. She also recently started receiving monthly child support payments of $150, or $1,800 annually. She reported no other changes to the PHA/MFH Owner. While the **combined** increase of earned income (wages) and unearned income (child support) is a 12.3-percent increase in annual adjusted income since the 6/1/2024 annual reexamination, the PHA/MFH Owner must look at the earned and unearned income changes independently to determine if an interim reexamination should be performed. The earned income is about 7 percent of the increase, and the unearned income is approximately 5 percent of the total 12.3-percent increase.

The PHA/MFH Owner documented in the tenant file that the family reported the change, but an interim reexamination was **not** performed, because the 5-percent increase in annual adjusted income based on **unearned** income does not meet the 10-percent threshold. Further, the PHA/MFH Owner may not perform an interim reexamination for Libby's 7-percent increase in annual adjusted income based on **earned** income, because an interim reexamination for an income decrease during the reexamination cycle was not completed **and** it does not meet the 10-percent threshold to perform an interim. Note: Even if Libby's change in earned income had exceeded 10 percent of her annual income, the PHA/MFH Owner may not perform an interim reexamination, because there was no prior interim reexamination for a decrease in income.

In November, Libby reported that her monthly child support payments increased again, from $150 to $325. She certified no other changes to income or deductions. Libby's annual **unearned** income from child support of $3,900 is now a 10.8-percent increase in annual adjusted income (based on the effective 6/1/2024 annual reexamination), so the PHA/MFH Owner **must** perform an interim reexamination, but only for the **unearned** child support income. The PHA/MFH Owner will continue to disregard the increased **earned** income reported by the family until the Mosberg's next annual reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion on the following policies:

- Whether the PHA/MFH Owner will conduct interim reexaminations for income increases reported by families within the last three months of a family's reexamination period; and
- Whether the PHA/MFH Owner will count increases in earned income when estimating or calculating whether the family's adjusted income has increased when the family previously received an interim reduction during the same reexamination cycle and whether they will conduct interim reexaminations when families previously underwent interim reexaminations for decreases in income (both earned and unearned income).

PHAs/MFH Owners must establish policies for the above-discretionary items in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable.

PHA/MFH Owner Discretion: None.

I.3 Interim Reexaminations to Determine Public Housing Over-Income Status

Regulations: 24 CFR § 960.507

Summary: Regardless of changes in adjusted annual income, in some circumstances PHAs are required to conduct interim reexaminations of Public Housing families to

determine whether they continue to exceed the income limit. When a PHA makes an initial determination that a Public Housing family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

Per 24 CFR 960.507(c), PHAs are required to conduct income examinations of Public Housing families who have been determined to exceed the over-income limit at specific intervals. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent. (24 CFR 960.253). The PHA must conduct an income examination 12 months after the initial over-income determination to determine and provide notification if the family remains over-income, unless the PHA determined the family's income fell below the over-income limit since the initial overincome determination. The PHA must again conduct an income examination and provide notification 24 months after the initial over-income determination, unless the PHA determined the family's income fell below the over-income limit since the second overincome determination. An interim income reexamination to determine if a Public Housing family remains over-income does not reset the family's normal annual reexamination date.

See Notice PIH 2023–03 (HA) for additional guidance on the required reexaminations and notice for over-income Public Housing families.

Example I3: Interim Reexamination to Public Housing Over-Income Status

Scenario A: Uninterrupted Grace Period: The Blayney Family

In June 2024, the PHA processed an interim reexamination for the Blayney family effective 7/1/2024 due to an increase in the family's annual adjusted income of 10 percent or more. The PHA sent written notification of its initial determination that the family's income exceeds the applicable over-income limit. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 7/1/2025, to determine if the Blayney family remains over-income, even if the family is paying a flat rent. The PHA must notify the Blayney family that their income has exceeded the over-income limit for 12 consecutive months.

After completion of the 7/1/2025 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit for an additional 12 consecutive months. The PHA must conduct a second interim reexamination, even if the family is paying flat rent, 24 months from the initial determination, or by 7/1/2026, to determine if the family remains over-income.

At the 7/1/2026 interim reexamination, the Blayney family's income continued to exceed the applicable overincome limit. The PHA must either terminate their tenancy in no more than six months from the end of the 24consecutive-month grace period, by 1/1/2027, or charge them the alternative non–public housing rent (at the next lease renewal or in no more than 60 days after the final notice, whichever is sooner), depending on the PHA's continued occupancy policies.

Scenario B: Interrupted Grace Period: The Morrison Family

The Morrison family experienced an income increase that resulted in an interim reexamination effective 2/1/2024. The family was sent the required written notification no later than 30 days after the PHA's initial determination of the family's over-income status. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 2/1/2025, to determine if the family remains over-income, even if the family is paying a flat rent.

After completion of the interim reexamination effective 2/1/2025, the Morrison family remained over the applicable over-income limit. The PHA must conduct a second interim reexamination, even if the family is paying a flat rent, 24 months from the initial determination, or by 2/1/2026, to determine if the family remains over-income. However, at a regularly scheduled annual reexamination effective 5/1/2025, the family is determined to no longer be over-income. This is prior to the expiration of the 24-month grace period on 2/1/2026. Thus, the grace period no longer applies, and the family remains an income-eligible PH program participant.

If the family is determined to be over-income again in the future, they would be entitled to a new 24-consecutivemonth grace period.

PHA Discretion: None.

I.4 Non-Interim Reexamination Transactions

Regulations: 24 CFR §§ 5.657(c)(2) 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: Families may experience changes within the household that do not trigger an interim reexamination under HOTMA but still need to be reported in a non-interim reexamination submission to HUD. In these cases, PHAs/MFH Owners will submit a separate, new action code on form HUD–50058/HUD–50059. Further instructions on the use of this action code will be provided along with supplemental guidance on other revisions to forms HUD–50058/HUD–50059. The code will be used for the following transaction types when an interim reexamination is not triggered under the final rule: Adding or removing a hardship exemption for the child-care expense deduction;

- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100%) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Removing a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and

- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

HCV Program Only:

- Processing contract rent changes that do not correspond with an interim or annual reexamination (including PBV rent increases);
- Implementing an update to the payment standard that does not correspond with an interim or annual reexamination.

Note: PHAs/MFH Owners will make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

I.5 Policies for Families to Report Changes to Annual Adjusted Income or Household Composition

Regulations: 24 CFR §§ 5.657(c)(4); 882.515(b)(1)–(4); 882.808(i)(4); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(4); and 982.516(d)

Summary: PHAs/MFH Owners must require families to report **household composition changes**; however, PHAs/MFH Owners determine the timeframe in which reporting happens. PHAs/MFH Owners must develop policies that describe when and under what conditions families must report **changes in annual adjusted income** consistent with the new requirements for processing interim reexaminations. PHAs/MFH Owners are responsible for educating families on the requirements for reporting changes. Families are responsible for reporting these changes to the PHA/MFH Owner. It is the PHA's/MFH Owner's responsibility to track all reported changes to a family's annual adjusted income to ensure that the PHA/MFH Owner is correctly processing interim reexaminations in accordance with HUD's requirements.

A PHA's/MFH Owner's policies may require families to report only changes that the family estimates meet the threshold for an interim reexamination, and the PHA/MFH Owner must determine if an interim reexamination is necessary. Alternatively, PHAs/MFH Owners may establish policies requiring that families report all changes in income and household composition, and the PHA/MFH Owner will subsequently determine if the change requires an interim reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to develop specific reporting policies that describe which changes must be reported to the PHA/MFH Owner and the timeline for reporting the change. For example, PHAs/MFH Owners may develop policies stipulating that families are not required to report **any** income increases that become effective within the last three months of the family's certification period, or PHAs/MFH Owners may develop policies requiring families to report all changes to household composition, income, and deductions within 10 days of the change.

I.6 Processing Time Period for Interim Reexaminations

Regulations: 24 CFR §§ 5.657(c)(1); 882.515(b)(1); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(1); and 982.516(c)(1)

Summary: The updated regulations codified long-standing guidance on how long PHAs/MFH Owners should take to process an interim reexamination.

Families may request an interim determination of income or household composition because of any changes since the last determination. While the PHA/MFH Owner may decline to conduct an interim reexamination of family income if they estimate the family's annual adjusted income will change by less than 10 percent, when the PHA/MFH Owner conducts an interim reexamination, it must be conducted within a reasonable period after the family's request or after the PHA/MFH Owner becomes aware of an increase in the family's adjusted income. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA/MFH Owner generally should conduct the interim reexamination not longer than 30 days after the PHA/MFH Owner becomes aware of changes in income.

PHA/MFH Owner Discretion: None.

I.7 Effective Date of Interim Rent Changes

Regulations: 24 CFR §§ 5.657(c)(5); 882.515(b)(4)–(b)(5); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(6); and 982.516(c)(4)

Summary: The updated regulation codified long-standing guidance on when interim reexaminations are made effective.

- **Changes Reported Timely:** If the family has reported a change in family income or composition in a timely manner according to the PHA/MFH Owner's policies, then the PHA/MFH Owner must provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period.

  If the tenant has complied with the interim reporting requirement and the tenant's rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

- **Changes Not Reported Timely:** If the family has failed to report a change in family income or composition in a timely manner according to the PHA/MFH Owner's policies, PHAs/MFH Owners must implement any resulting rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income.

  Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination. The PHA/MFH Owner may choose to adopt a policy that would make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination. PHAs/MFH Owners may also choose to establish conditions or

requirements for when such a retroactive application would apply (e.g., where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to the PHA/MFH Owner management operations).

PHAs/MFH Owners that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of the first of the month following the date of the change that led to the interim reexamination, or the first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

In applying a retroactive change in rent or family share as the result of an interim reexamination, the PHA/MFH Owner must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility. In the HCV and Moderate Rehabilitation/SRO programs, the PHA must also clearly communicate the effect of the retroactive adjustment to the owner as well. These policies may reduce the potential hardship on families and eliminate or significantly reduce the amount a family may owe the PHA for back rent if the family has had difficulty in making timely rent payments during the time between the loss of income and the interim reexamination.

An exception to the requirement that a PHA/MFH Owner implement resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination exist if a PHA/MFH Owner failed to process a family's interim reexamination because the family did not timely report an income decrease, as illustrated in example I4, scenario D, below.

Example I4: Effective Date of Interim Rent Changes

Scenario A: The Miller family had a decrease in family income that met the threshold due to the loss of a job on 6/2/2024. They reported the decrease to the PHA/MFH Owner in accordance with the PHA/MFH Owner's policies on 6/15/2024. The interim reexamination must be effective 7/1/2024, regardless of when the PHA/MFH Owner processes the interim reexamination.

Scenario B: The Leon family had an increase of 10 percent or more in annual adjusted income on 6/1/2024 due to receiving a new type of benefit income. The increased income meets the threshold to require an interim. They reported the increase to the PHA/MFH Owner in accordance with local policies on 6/20/2024. The PHA/MFH Owner did not process the interim reexamination until 7/11/2024, so the effective date of the interim reexamination is 9/1/2024 to give the family the required 30-day notice of the increase in total tenant portion.

Scenario C: The Nguyen family had a family member join the household, thereby increasing the annual adjusted income by 10 percent or more due to the new member's Social Security income starting on 8/1/2024. The increased income meets the threshold to require an interim. However, the change in income was not reported to the PHA/MFH Owner until 9/15/2024. The PHA/MFH Owner has a policy requiring a family to report changes in family income within 30 days. Because the family failed to alert the PHA/MFH Owner of the increase in income in accordance with the PHA/MFH Owner's policy, the increased income is effective retroactive to 9/1/2024, the first of the month following the date of the income change.

Scenario D: The Housseini family's current annual reexamination is effective on 2/1/2024. A member of the Housseini family lost their job on 1/2/2024, but the family failed to report the change until 4/5/2024. If the

PHA/MFH Owner has a written policy allowing for retroactive rent decreases even when the family does not report changes timely, the retroactive rent decrease could be applied on 3/1/2024 (the first of the month following the family's most recent previous income examination).

PHA/MFH Owner Discretion: PHAs/MFH Owners must establish policies describing when and under what conditions a family is required to report changes in family income or composition in order to meet the "timely manner" requirement. PHAs/MFH Owners must update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to include these policies and must communicate them clearly to participating families.

PHAs/MFH Owners may adopt a policy to apply rent decreases retroactively for circumstances in which families fail to report changes in a timely manner. A retroactive rent decrease may not be applied prior to the later of either the first of the month following the date of the actual decrease in income, or the first of the month following the most recent previous income examination. PHAs/MFH Owners may establish additional criteria to describe the conditions under which retroactive decreases will be applied (e.g., the kinds of extenuating circumstances that may inhibit timely reporting). In all cases of retroactive application, the PHA/MFH Owner must clearly communicate to the family how the retroactive adjustment will affect their responsibility for rent. In the HCV and Moderate Rehabilitation programs, the PHA must also clearly communicate the impact of the retroactive adjustment to the owner.

I.8 Streamlined Income Determination

Regulation: 24 CFR §§ 5.609(c)(2)(i); 5.657(d); 891.105; 891.410(g)(4); 891.610(g)(4); 960.257(c); and 982.516(b)

Summary: HOTMA did not update or otherwise change the streamlined income determination provision codified in the FAST Act[I3] and in HUD's regulations found in 24 CFR §§ 5.657(d), 960.257(c), and 982.516(b); however, PHAs/MFH Owners should be aware that the adjustments of non-fixed income sources at annual reexamination using third-party verification must follow the HOTMA income calculation rules outlined in Attachment B (Calculating Income) of this notice.

Under current program regulations, PHAs/MFH Owners may elect to apply a streamlined income determination for families receiving fixed income[I4]using the methodology below. For any income determined pursuant to a streamlined income determination, a PHA/MFH Owner must obtain third-party verification of all income amounts every 3 years.

When **90 percent or more** of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA or COLAs to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income need not be adjusted and must not be adjusted by a COLA, but PHAs/MFH Owners may choose to adjust sources of non-fixed income by the amount determined on the basis of third-party verification. PHAs/MFH Owners have the discretion to either adjust the non-fixed

[13] P.L. 114–94.

[14] 24 CFR §§ 5.657(d)(2); 960.257(c)(2); and 982.516(b)(2); 891.410(g)(4); and 891.610(g)(4).

income or carry over the calculation of non-fixed income from the first year to years 2 and 3. Adjustments to non-fixed income must be calculated in accordance with section 14.2 (Annual Reexamination) of this notice.

When **less than 90 percent** of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA to each of the family's sources of fixed income. Owners must determine all other income pursuant to section 14.2 (Annual Reexaminations) of this notice.

The table below explains the applicable PHA/MFH Owner action at each point in time in the streamlining cycle.

Table I1: PHA/MFH Owner Action at Point in Time in Streamlining Cycle

Point in Time in Streamlining Cycle	PHA/MFH Owner Action
Year 1	PHA/MFH Owner completes a Move in, Initial Certification (MFH Only) or Annual Reexamination consistent with the regulations on reexaminations.
Years 2 and 3	PHA/MFH Owner completes an Annual Reexamination with the following streamlined income determination for each type of source: • **Fixed Income:** Apply inflation adjustment factor; PHA/MFH Owner does not collect third-party verification. • **Non-fixed income when fixed income is more than 90 percent of unadjusted income:** PHA/MFH Owner has discretion to either adjust the income using third-party verification or use the previous year's calculation. • **Non-fixed income when fixed income is less than 90 percent of unadjusted income:** PHA/MFH Owner must adjust the income using third-party verification. • **Assets and Deductions:** PHA/MFH Owner completes verification and calculation of assets and deductions.
Year 4	Three-year cycle starts over.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to implement streamlined income determinations under current program regulations.

I.9 Impact of Interim Reexamination Requirements on Family Self-Sufficiency (FSS) Programs

Summary: PHAs/MFH Owners who operate FSS programs should note two effects that the new interim reexamination regulations will have on families participating in their FSS programs.

First, HOTMA requires that interim reexaminations must be conducted: (1) when a family's income decreases by at least 10 percent of their annual adjusted income, or such lower threshold established by a PHA/MFH Owner or by HUD through notice; or (2) when a family's income increases by at least 10 percent of their annual adjusted income or such other amount established by HUD through notice, except in certain circumstances as described earlier in paragraph I.2 (Increases in Adjusted Income) of this notice.

PHAs/MFH Owners may not consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased unless the family has previously received an interim reduction during the same reexamination cycle. Families participating in the FSS program are subject to these interim requirements, therefore their escrow accounts may not grow as their earnings increase throughout the year.

Second, the "Streamlining and Implementation of Economic Growth, Regulatory Relief, and Consumer Protection Act Changes to Family Self-Sufficiency Program" final rule states that the FSS contract of participation (COP) will generally expire 5 years **from the date of the family's first re-certification of income after** the effective date of the FSS COP. The PHA/MFH Owner may not perform an interim reexamination of annual income when enrolling a family in the FSS program unless the family experienced a change in annual adjusted income that meets the threshold for conducting an interim reexamination under the HOTMA final rule. Families for whom their first reexamination of income does not occur until their regularly scheduled annual reexamination will not have the opportunity to begin escrowing their increased earnings until that time and may have fewer escrow increases over the life of the 5-year contract.

Although families participating in FSS may experience fewer escrow increases under the HOTMA final rule, the revised interim reexamination regulations may provide these families the opportunity to use their increased earnings to realize other short- or longterm goals outside of the scope of the FSS program, such as investing in a hobby, going on a vacation with family, purchasing a car, etc.

PHA/MFH Owner Discretion: None.

ATTACHMENT J: TOPIC: VERIFICATION

Regulations

24 CFR §§ 5.216(g)(1); 5.230; 5.230(c)(5)(iii); 5.232; 24 CFR 5.232(c); 5.233; 5.240(c); 5.609(c)(3); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); 891.750; 960.259(c); and 982.516(a)(2)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/162 PAC, Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

The final rule updated verification of income requirements in 24 CFR §§ 5.230; 5.232; 5.233; 5.609; and 5.659.

Subtopics

J.1 Authorization for the Release of Information (Forms HUD–9886/HUD–9887)

Regulations: 24 CFR §§ 5.230; 5.232; 891.105; 891.410(b)-(c); and 891.610(b)-(c)

Summary: In accordance with the final rule, all applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income reexamination. After an applicant or participant has signed and submitted a consent form either on or after January 1, 2024 (regardless of the PHA/MFH Owner's compliance date), they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination except under the following circumstances[J1]:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the PHA in administrative instructions.

These consent forms contain provisions authorizing HUD and the PHA/MFH Owner to obtain necessary information for verification of an application or to maintain a family's assistance, including income information and tax return information. The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA/MFH Owner to

[J1] Any person, regardless of age, who subsequently becomes a family member as the head of household, co-head of household, or spouse, must sign the consent form, in accordance with 24 CFR § 5.230(a).

revoke consent. If a family voluntarily leaves a HUD program, the family's assistance is considered to be terminated and the signed consent forms will no longer be in effect.

HUD will publish a new form HUD–9886–A and is updating forms HUD–9887 and HUD–9887–A (Fact Sheet) to conform with the final rule. HUD will include language in the forms allowing PHAs/MFH Owners to obtain financial records from financial institutions whenever the PHA/MFH Owner determines that such a record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to establish policies around when family members must sign the consent forms when they turn 18 between reexaminations. PHAs/MFH Owners must establish these policies in their ACOPs, Administrative Plans, and Tenant Selection Plans, if requiring family members to sign consent forms at intervals other than at reexamination.

J.2 Revocation of Consent

Regulations: 24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c); 891.105; 891.410(g)(3)(ii); and 891.610(g)(3)(ii)

Summary: The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA/MFH Owner to revoke consent. Revocation of consent or refusal to sign the consent forms prohibits the PHA/MFH Owner from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program). PHAs/MFH Owners will not be able to process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).

Families have the right to revoke consent by providing written notice to the PHA/MFH Owner; however, revoking consent may result in termination of assistance or denial of admission, if the PHA/MFH Owner has a policy that the revocation of consent will result in termination of assistance or denial of admission. When PHAs/MFH Owners do not establish such a policy, the family is required to sign a new consent form by the next reexamination, whichever occurs first, in order to avoid termination of assistance or be reviewed for eligibility for admission. PHAs/MFH Owners must explain to families the consequences, if any, of revoking their consent.

PHAs/MFH Owners must notify their local HUD office of a family's revocation of consent.

PHA/MFH Owner Discretion: PHAs/MFH Owners may decide whether revocation of a family's consent will result in termination of assistance or denial of admission. Such a policy must be included in the PHA/MFH Owner's Administrative Plan, ACOP, or Tenant Selection Plan, as applicable.

J.3 Mandated and Discretionary use of HUD's Enterprise Income Verification (EIV)

System

Regulation: 24 CFR § 5.233

Summary: The regulation clarifies that PHAs/MFH Owners must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs/MFH Owners are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

PHAs/MFH Owners are still required to use EIV in its entirety, including using all of the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information at all other times.

Note: HUD intends to update the discrepancy logic for the MFH and Public Housing Income Discrepancy Reports and the Income Verification Tools (IVTs) to conform to the requirements of the final rule. PHAs/MFH Owners are not required to investigate discrepancies resulting from the MFH and Public Housing Income Discrepancy Reports and the IVT Tools until HUD updates the discrepancy logic. HUD will notify PHAs/MFH Owners when the new reports are ready for use.

Table J1 provides guidance on the frequency with which individual EIV reports must be utilized by a PHA/MFH Owner.

Table J1: Mandatory and Discretionary Use of EIV by PHAs/MFH Owners

Report Title	Report Description	Frequency of Use	PHAs/MFH Owners
Debts Owed to PHAs & Terminations	Allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.	At the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended program participation.	PHAs only Report does not exist in MFH EIV.
Deceased Tenants Report	Identifies tenants reported by Social Security Administration (SSA) as being deceased.	At least quarterly	PHAs/MFH Owners
Existing Tenant Search	Identifies applicants who may be receiving assistance at another Multifamily project or PIH location.	At the time of processing an applicant family for admission	PHAs/MFH Owners
Failed EIV Prescreening Report	Identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test.	Monthly	PHAs/MFH Owners

Failed Verification Report (Failed	Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database.	Monthly	PHAs/MFH Owners
SSA Identity Test)	*PHAs/MFH Owners that admit families using a selfcertification of SSN must review the Failed SSN Verification Report monthly to identify and follow up on new issues.		
Identity Verification Report	Identifies tenants that, failed SSA verification, and failed EIV pre-screening.	Monthly	PHAs/MFH Owners
Income Discrepancy Report for MFH Programs	Identifies households where there is an income discrepancy in the wage, unemployment, and SSA benefit information reported in EIV and wage, unemployment, and SSA benefit information reported in TRACS for the period of income used for discrepancy analysis. The report serves as a tool to alert MFH Owners that there may be a discrepancy in the income reported by the tenant during the period of income used for the discrepancy analysis.	Must be used at annual reexamination. MFH Owners may use the report at other intervals, in accordance with the MFH Owner's written EIV policies and procedures. MFH Owners **are not** required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination. *See note under Summary above about updates to the MFH Income Discrepancy Report.	MFH Owners

Income Information for PIH Programs Income Report for MFH Programs	Provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test. Identifies tenants who: • May not have reported complete and accurate income information; and/or • May be receiving multiple subsidies.	Must be used at annual reexamination; not required at interim reexaminations. PHAs/Owners may use, if desired. PHAs/MFH Owners **are not** required to use at annual reexamination if they use Safe Harbor verification to determine the family's income. **New Admissions:** Review new admissions within 120 days after the move-in information is transmitted to HUD to confirm/validate the income reported by the household.[J2]	PHAs/MFH Owners
Income Validation Tool Report for PIH Programs	Provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with the Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, and the SSA.	PHAs are required to obtain an EIV Income and Income Validation Tool Report for each family any time the PHA conducts an annual reexamination of family income and composition. PHAs may use the report at other intervals, in accordance with the PHA's ACOP or Administrative Plan. PHAs **are not** required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination. *See note under Summary above about updates to the MFH and Public Housing Income Discrepancy Reports.	PHAs

[J2] PHAs/MFH Owners must rely on other documents (e.g., pay stubs, benefit award letters, etc.) to verify families' income eligibility before admission.

Multiple Subsidy Report	Identifies tenants who may be receiving rental assistance at more than one location.	At least quarterly	PHAs/MFH Owners
New Hires Report	Identifies tenants who have new employment within the last six months. Report is updated monthly.	PHAs/MFH Owners must review this information at annual reexamination except when the PHA/MFH Owner uses Safe Harbor verification to determine the family's income. PHAs/MFH Owners that do not require families to undergo interim reexaminations (IRs) for income increases after an IR decrease do not need to review this report at all between a family's annual reexamination. If the PHA/MFH Owner's policy is to require an IR for increases in income after an IR decrease, then the PHA/MFH Owner must review the report quarterly after the family's IR decrease.	PHAs/MFH Owners
No Income Reported by HHS or SSA	Identifies tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs/MFH Owners must obtain written, third-party verification of any income reported by the tenant.	As identified in a PHA's ACOP or Administrative Plan or a MFH Owner's written EIV policies and procedures.	PHAs/MFH Owners
No Income Reported on 50059	Identifies households where there is no income listed on the HUD–50059.	As identified in MFH Owner's written EIV policies and procedures.	MFH Owners

Summary Report	Summary of household information from the current, active certification in the TRACS file at the time of the income match.	Must be used at annual reexamination; not required at interim reexaminations. MFH Owners may use the report at other intervals, if desired, as described in the MFH Owner's written EIV policies and procedures.	MFH Owners

PHA/MFH Owner Discretion: PHAs/MFH Owners may choose to use EIV to verify tenant employment and income information at interim reexaminations of family

composition and income. PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP and/or Administrative Plan. MFH Owners who choose to use EIV to verify tenant employment and income information at interim reexaminations must establish this policy in their written EIV policies and procedures. Any policy adopted by a PHA/MFH Owner must be applied consistently for all households.

J.4 Determination of Income Using Other Means Tested Public Assistance (i.e., "Safe Harbor")

Regulation: 24 CFR §§ 5.609(c)(3) and 891.105; 891.410(b)-(c) and (g); and 891.610(b)-(c) and (g)

Summary: PHAs/MFH Owners may determine a family's annual income, including income from assets, prior to the application of any deductions based on income determinations made within the previous 12-month period, using income determinations from the following types of means-tested federal public assistance programs:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).
- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- Other programs administered by the Secretary.
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding.
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a *Federal Register* notice.

If a PHA/MFH Owner elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members), and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs/MFH Owners will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR § 5.618.

The Safe Harbor verification may be in the form of an award letter from the relevant federal program and must show that the family's income determination was made in the previous 12 months. **HUD clarifies in this notice that the verification will be considered acceptable if the documentation meets the criteria that the income determination was made within the 12 months prior to the receipt of the verification by the PHA/MFH Owner. This satisfies all verification date requirements for Safe Harbor income determinations.**

The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA/MFH Owner:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHA/MFH Owners are permitted to use to determine income under this Safe Harbor is the total income determination made by the federal means-test program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information **must not** be considered by the PHA/MFH Owner for purposes of the HOTMA Safe Harbor provision. PHAs/MFH Owners are not permitted to mix and match Safe Harbor income determinations and other income verifications.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs/MFH Owners are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

It is anticipated that in many cases tenants will provide the PHA/MFH Owner with the Safe Harbor third-party verification for the purpose of reexamination, rather than the PHA/MFH Owner mailing a verification form to the third party to complete. If the PHA/MFH Owner does not accept Safe Harbor documentation, is unable to obtain Safe Harbor documentation, or if the family disputes the other program's income determination, the PHA/MFH Owner must calculate the family's annual income using the methods established in § 5.609(c)(1) and (2).

If the PHA/MFH Owner uses a Safe Harbor determination to determine the family's income for an income examination (New Admission/Move Ins, Initial Certification for MFH programs only, Interim Reexamination, or Annual Reexamination), then the family is obligated to report changes in income that meet the reporting requirement and occur after the effective date of the PHA/MFH Owner's transaction. This might mean that a certain source of income was not considered in the family's income, because the other

program does not consider the source to be income. For example, if the family begins receiving a new source of income on 2/1/2024 and the PHA/MFH Owner completed an annual reexamination effective 3/1/2024 using a Safe Harbor income determination, then the family does not need to report that change in income. If the family has a change in adjusted income in accordance with HUD's rules that occurs after 3/1/2024, when the Annual Reexamination was effective, then the family must report the change to the PHA/MFH Owner.

Example J1: Acceptable Verification of Safe Harbor

Background: A PHA/MFH Owner decides to implement the Safe Harbor provision, and their policy states that they will accept income determinations from the Supplemental Nutrition Assistance Program (SNAP). At the Smith family's annual reexamination interview, the Smiths provide the reexamination specialist an original printout from the agency that administers SNAP benefits. The printout reflects the Smith's correct family size of 4, and current household composition, and it states the total amount of the family's earned income. The annual income is $19,500 ($812.50 x 24 semi-monthly pay periods). The print-out was dated 30 days prior to the PHA/MFH Owner's request, and the income was determined six months ago.

SNAP Budget Calculation (from State Department of Social Services)

Report Date: 05/17/2024

Head of Household: Smith, Hunter Home

Address: 123 Main Street, USA

Household members:

Last Name	First Name	Date of Birth	Relationship
Smith	Hunter	01/01/1974	Head of Household
Smith	Annabelle	06/18/1976	Spouse
Smith	Lola	05/17/2019	Daughter
Smith	Eric	05/17/2019	Son

Budget Calculation

Monthly Earned Income: $1,625

Total Unearned Income: $0

Standard Deduction: $112.50

Monthly child care/dependent care: $50

Allowable medical deductions: $0

Result: The PHA/MFH Owner may use this printout to determine the Smith's annual income for their annual reexamination. The PHA/MFH Owner lists $19,500 as the annual income for the family's reexamination ($1,625 monthly earned income + $0 unearned income x 12 months). The PHA/MFH Owner **does not** need to take any additional steps to verify or calculate gross annual income, including comparing the income determination to EIV data. The PHA would then verify and apply applicable deductions to calculate the family's annual adjusted income.

PHA/MFH Owner Discretion: PHAs/MFH Owners are not required to accept or use determinations of income from other federal means-tested forms of assistance.

PHAs/MFH Owners must establish in policy whether and when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations. PHAs/MFH Owners must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., to accept the most recent income determination). These policies must be included in the PHA's/MFH Owner's ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

J.5 Verification Hierarchy

Regulation: 24 CFR §§ 5.240(c); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)(c) and (g); 960.259(c); 982.201(e); and 982.516(a)(2)

Summary: PHAs/MFH Owners are responsible for obtaining third-party verification of reported family annual income, the value of assets, expenses related to deductions from annual income, and other factors that affect the determination of adjusted income. Thirdparty verification is a process by which PHAs/MFH Owners gather information (e.g., about the family's annual income, value of assets, etc.) independently from the source of the income, assets, expenses, or other factors that affect the determination of adjusted income. Third-party verification may be obtained directly from the third party or through the family. PHAs/MFH Owners must document in the tenant file the reason why thirdparty verification was not available unless HUD's regulations specifically permit families to self-certify a particular component of adjusted income.

HUD developed a hierarchy (see table J2, below) that describes verification documentation from most acceptable to least acceptable. The PHA/MFH Owner must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed (e.g., net family assets that do not exceed $50,000).

A description of each verification technique and additional guidance follows Table J2.

Table J2: Verification Hierarchy

Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	Highest PHAs/MFH Owners must pull the EIV Income Report for each family at every Annual Reexamination, unless using Safe Harbor documentation to verify the family's income
		EIV may be used as the sole verification of Social Security income. EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.

5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	Highest
4	Written, third-party verification from the source, also known as "tenant-provided verification" OR EIV + Self-Certification PHAs/MFH Owners can choose either option when both are available to verify income. PHAs/MFH Owners must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High • Written, third-party verification is used when tenant disputes EIV-reported employment and income information. • The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written, Third-Party Verification Form	Medium • Use if Level 5 or Level 4 verification is not available or is rejected by the PHA/MFH Owner and when the applicant or tenant is unable to provide acceptable documentation. • May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.
2	Oral Third-Party Verification	Medium
1	Self-Certification (not third-party verification)	Low • Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed $50,000. • May be used as highest form of verification when the family reports zero income.

J.5.a Third-Party Verification Descriptions and Guidance

- **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/MFH Owners as a UIV technique and that all

  PHAs/MFH Owners are required to use EIV in its entirety (see paragraph J.3 on Mandated and Discretionary Use of EIV). PHAs/MFH Owners are encouraged to continue using other non-HUD UIV tools, such as The Work

Number (an automated verification system) and state government databases, to verify tenant-reported income.

- **Written, Third-Party Verification (Level 4):** An original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA/MFH Owner. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

  Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. PHAs/MFH Owners may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

  Examples of acceptable tenant-provided documentation (generated by a thirdparty source) include but are not limited to the following: 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.

  PHAs/MFH Owners are required to obtain a minimum of two current and consecutive pay stubs for determining projected annual income from wages when they are relying on pay stubs for Level 4 documentation. MFH Owners were previously required to collect the most recent four to six weeks of pay stubs to verify employment income. For new income sources or when two pay stubs are not available, the PHA/MFH Owner should determine income based on the information from a traditional written, third-party verification form or the best available information.

  Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

  When verification of assets is required, PHAs/MFH Owners are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts. MFH Owners were previously required to average the balance of six checking account statements to determine the cash value of a checking account.

  EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV; this practice is known as "EIV + Self-Certification." The PHA/MFH Owner may use their discretion to determine which method of calculation is reasonable: the last 4 quarters combined or an average of any number of quarters. The EIV Income report must be pulled within 120 days prior to the reexamination effective date.

- **Written, Third-Party Verification Form (Level 3):** This practice is also known as "traditional third-party verification." This type of verification is a form developed by the PHA/MFH Owner and used uniformly for all families when needed to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHAs/MFH Owners send the form directly to the third-party source by mail, fax, or email.

  The PHA/MFH Owner may skip this level of verification before attempting Level 2, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

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

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

  The PHA/MFH Owner may skip this level of verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

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

  HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

  Sample language to use in a self-certification: "I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)"

J.6 Verification of Social Security Number (SSN)

Regulation: 24 CFR § 5.216(g)(1) 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g)

Summary: It has become increasingly difficult for applicants to meet HUD's SSN disclosure requirements, particularly for those individuals experiencing homelessness. To help protect individuals' privacy, many federal, state, and local agencies no longer print an individual's SSN on official documentation. Individuals may be required to visit their local Social Security office and provide original identity documentation in order to obtain a replacement Social Security card.

HUD is adjusting what the Department considers acceptable documentation of SSN under 24 CFR § 5.216(g)(1) to make it easier for applicants to access programs even if they do not have access to their Social Security card or other documentation acceptable to HUD. PHAs/MFH Owners must still attempt to gather third-party verification of SSN prior to admission; however, they will also have the option of accepting a selfcertification and a third-party document with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA/MFH has exhausted all other attempts to obtain the required documentation. HUD has provided similar flexibility to PHAs through the CARES Act waivers and for Emergency Housing Vouchers.

HUD prescribes, through this notice and in accordance with 24 CFR 5.216(g)(1)(iii), that the following evidence of SSN is acceptable only after the PHA/MFH Owner has attempted to first obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual:

Self-certification of SSN *and* at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual.

If verifying an individual's SSN using this method, the PHA/MFH Owner must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA/MFH Owner must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

J.7 Verification of Excluded Income

To reduce administrative burdens on PHAs/MFH Owners, HUD is providing guidance and clarification on the requirements for verifying excluded income.

For income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD, the PHA/MFH Owner **is not** required to:

- Verify the income using third-party verification;

- Document in the tenant file as to why the third-party verification was not available as required by 24 CFR §§ 5.659(d), 960.259(c)(i), and 24 CFR 982.516(a)(2); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); or
- Report the income on forms HUD–50058/HUD–50059.

PHAs/MFH Owners may accept an applicant or participant's self-certification as verification of excluded income. The PHA/MFH Owner's application and reexamination questionnaire documentation may serve as the self-certification of excluded income. PHAs/MFH Owners have the option of verifying the income using third-party verification, if necessary, to determine if a source of income qualifies for exclusion.

Examples of excluded income categories that are verifiable through applicant or participant self-certification include:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- Income of a live-in aide. For a complete list of income exclusions, see 24 CFR § 5.609(b).

An income source that is partially excluded, for example, earnings in excess of $480 for full-time students 18 years of age or older (24 CFR § 5.609(b)(14)), must be third-party verified and reported on forms HUD–50058/HUD–50059.

J.8 Zero Income Procedures

PHAs/MFH Owners may accept a self-certification of zero income from the family at admission and at reexamination without taking any additional steps to verify zero reported income. HUD does not require that such self-certification be notarized. PHAs/MFH Owners are reminded that they must verify families' income in EIV within 120 days after admission, except where the PHA/MFH Owner used Safe Harbor documentation to verify a family's income.

PHAs/MFH Owners have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero income worksheet at admission or periodically after admission to determine if they have any sources of unreported income, or searching an upfront income verification source (see Level 5) for unreported income, such as a public benefits database to which the PHA/MFH Owner has access. These procedures are meant to avoid improper payments and the need for repayment agreements.

In calculating annual income from a zero income worksheet, PHAs/MFH Owners must not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the family (24 CFR § 5.609(b)(24)(vi)). PHAs/MFH Owners perform an interim reexamination only due to an increase in the family's adjusted income (24 CFR §§ 5.657(c)(3); 882.515(b)(3); 891.410(g)(2); 891.610(g)(2); 960.257(b)(3); and 982.516(c)(3)).

PHAs/MFH Owners that establish zero income procedures must update their local discretionary policies, procedures, and forms to comply with the final rule requirements. For example, families who begin receiving income which does not trigger an interim

reexamination should no longer be considered zero income even though the family's income is not reflected on the form HUD–50058/HUD–50059.

APPENDIX: SAMPLE NET FAMILY ASSET SELF-CERTIFICATION FORM

Self-Certification of Net Family Assets and Real Property

This form will help determine your eligibility for the program under the asset limitation. Your housing provider may also use this form to help determine your income from assets if your total net family assets do not exceed $50,000 (adjusted annually for inflation). Third-party verification is required when net family assets exceed $50,000, and every three years.

Real Property (for example: land, house, condominium, commercial building, etc.).

1. Do you or any member of your assisted family have an ownership interest in any real property?

☐ Yes ☐ No

If the answer to question #1 is No, skip to question #6.

2. If yes, please check off if any of the following statements are true about the property:

____ The property does not meet the disability-related needs for all members of the family (for example, physical accessibility requirements, accessible common areas, disability-related need for additional bedrooms, or closeness to accessible transportation/medical facilities/other supportive services, etc.);
____ The property is not sufficient for the size of the family;
____ The property is located in an area that is a hardship (for instance, far from a family member's place of work or school);
____ The property is not safe to live in because of physical condition; or
____ The property is not a property where a family can live based on the State or local laws where the property is located.

If you checked off any of the above statements, you will need to provide additional documentation to demonstrate that the statement is true.

3. If you did not check off any of the statements in question 2, do you or any member of your assisted family have the legal authority to sell the property?

☐ Yes ☐ No

4. There is an exemption from the limitation on assistance for families that have an ownership interest in real property for victims of domestic violence, dating violence, sexual assault, and stalking. If you or any member of the assisted family is a victim, you can claim

   this exemption from the real property limitation. Please check this box if you think you may be eligible for this exemption.

   ☐ I believe I may be eligible for this exemption, and I would like more information from the PHA's VAWA Coordinator or Executive Director, or the MFH property's Owner/Agent. (If you do not understand this exemption or how to exercise your rights, you can speak to these individuals for more information.)

5. What is the estimated cash value of the property (market value minus mortgage/other loans and costs to sell. Enter $0 if market value of property is less than outstanding debt (i.e., mortgage is upside down/underwater)?

$

Other Assets (for example: accounts, luxury items that are not necessary)

6. How much income do you expect your family to earn from your total family assets in the next year? This includes interest, dividends, and other earnings, e.g., anything for which you receive Form 1099 tax documents. Actual income (interest, dividends, etc.) from excluded assets is included as income.

$

7. Do you or any member of your assisted family have other assets (including checking accounts, savings accounts, certificates of deposits (CDs), stocks, bonds, luxury items, recreational vehicles, etc.) that total more than $50,000 (adjusted annually for inflation)?

   ☐ Yes ☐ No

Assets to consider	Assets always excluded

☐ Checking and savings accounts ☐ Stocks, bonds, mutual funds ☐ Luxury items or items that are not necessary, e.g., recreational boat, vehicles not used for regular transportation ☐ Assets disposed of for less than fair market value; for example, if you gave away a house to someone out outside of the assisted family within the past two years, the value of the house would be considered an asset (except as determined by certain divorce or separation settlements)	☐ Retirement accounts (e.g., IRAs, 401k, 403b) ☐ Educational savings accounts (Section 529, Section 530, Coverdell ESA, etc.) ☐ ABLE accounts ☐ Non-revocable trusts ☐ Necessary items of personal property (items essential for the maintenance, use, and occupancy of a home or necessary for employment, education, cultural expression, or health and wellness) ☐ Federal tax refunds (must be subtracted from total net family assets)

I/We, the undersigned, certify that the information provided here is true and correct to the best of my knowledge and recollection. Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)

_____ _____

Head of Household Signature Date

Table of Contents

Table of Contents 371
Attachments 372
Attachment A: PHA-Owned Units 372
PHA-Owned Project: Example 373
Attachment B: PHA-Owned Units and Independent Entities 376
Table 1: Overview of Independent Entity Functions 378
Attachment C: Percentage Limitation (Program Cap) and PHA Submission Requirements 383
Attachment D: PBV Percentage Limitation — 10 Percent Increase for Eligible Units 385
Attachment E: Income-Mixing Requirement (Project Cap) 391
Project Cap: Example 391
Exceptions to Project Cap: Example 392
Increased Project Cap: Example 395
Effect on Existing Contracts: Example 395
Attachment F: Units Not Subject to Percentage Limitation (Program Cap) or Income-Mixing Requirement (Project Cap) 397
Attachment G: PBV HAP Contract: Initial Term and Extensions 402
Scenario 1 403
Scenario 2 404
Scenario 3 404
Scenario 4 405
Attachment H: Priority of PBV HAP Contracts 407
Attachment I: PBV Biennial Inspections 407
Attachment J: Adding Units to PBV HAP Contract Without Competition 408
Attachment K: PBV Contract Termination or Expiration without Extension 410
Attachment L: Attaching PBVs to Certain PHA-Owned Projects Without Following a Competitive Process 412
Attachment M: Project-Basing Family Unification Program and HUD-VASH Vouchers 414
Appendices 416
Appendix I. PBV Program Cap Calculation Instructions 416
Appendix II. PHA Plan, Administrative Plan, and Other PBV Topics 420
Appendix III. Reporting 427
Appendix IV. HCV, Homeownership, and PBV Inspection Requirements 430
Table 1: HCV Inspection Requirements Not Applicable to the PBV Program 430
Table 2: HCV Inspection Requirements Not Applicable to the Homeownership Option 431

Attachments

Attachment A: PHA-Owned Units

Regulation: 24 CFR §983.3, 24 CFR §982.352, and 24 CFR §982.628(d)

HOTMA Reference: Sec. 105, which amends Sec. 8(o)(11) of the Act

Applicable Programs: HCV (including the Homeownership Option) and PBV

Summary of Change: HOTMA defines the term "owned by a PHA," overriding the definition of PHA-owned units previously established in regulation under 24 CFR §983.3, 24 CFR §982.352, and 24 CFR §982.628(d). This Attachment A and Attachment B supersede Notice PIH 2015–05, Section III, in its entirety.

Content: For a unit that is PHA-owned according to the HOTMA definition, a PHA must identify and use an independent entity to perform certain functions. Attachment B of this notice discusses the responsibilities of independent entities for PHA-owned units.

The provisions of this Attachment A apply to the PBV program and to the HCV program (including the Homeownership Option), except where otherwise noted.

(1) Definition of PHA-owned units. In accordance with HOTMA, a unit is "owned by a PHA" if the unit is in a project that is:

- (a) Owned by the PHA (which includes a PHA having a "controlling interest" in the entity that owns the unit);
- (b) Owned by an entity wholly controlled by the PHA; or
- (c) Owned by a limited liability company (LLC) or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.

"Controlling interest" means:

- (a) Holding more than 50 percent of the stock of any corporation; or
- (b) Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a non-profit corporation); or
- (c) Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA; or
- (d) Holding more than 50 percent of all managing member interests in an LLC; or
- (e) Holding more than 50 percent of all general partner interests in a partnership; or
- (f) Having equivalent levels of control in other ownership structures. Most ownership structures are already covered in the categories listed above. This last category is meant to cover any ownership structure not already listed in the categories above. Also, under this category (f), a PHA must have more than 50 percent control in that ownership structure (an equivalent level of control) for the project to be considered PHA-owned.

PHA-Owned Project:

PHA A holds more than 50 percent of the stock in ABC Projects, and ABC Projects is a corporation that owns the project to which PBV assistance will be attached. In this case, the project is considered PHA-owned.

Example

(2) Units not PHA-owned. The previous definition of PHA-owned (as established in regulation) was more expansive than the HOTMA definition. Under the previous definition, if a PHA held any interest (direct or indirect) in a project, then the project was considered to be PHA-owned. The following list offers examples of scenarios under which a unit is not considered to be PHA-owned under the HOTMA definition:

(a) The PHA holds a fee interest as ground lessor of the property on which the building is situated, but no ownership interest in the building or unit itself.

(b) The PHA holds only a security interest under a mortgage or deed of trust on the unit; or

(c) The PHA has only a non-controlling interest in an entity that owns the unit or in the managing member or general partner of an entity that owns the unit. Following the example above, assume PHA A holds only 45 percent of ABC Project's stocks, which is below the threshold that constitutes a controlling interest in the corporation that owns the project. In this case, the project is not considered to be PHA-owned.

As it relates to the PBV program, the new section 8(o)(13)(N) of the Act allows a PHA to attach PBVs to a project in which the PHA has an ownership interest or over which the PHA has control, without following a competitive process, but only in cases in which the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. In this context, the PHA's ownership interest does not have to meet the definition of the term "owned by a PHA" established by section 105 of HOTMA. Information on what constitutes an ownership interest or control for purposes of section 8(o)(13)(N) is found in Attachment L of this notice.

(3) Classifying a unit as not PHA-owned. The new definition of PHA-owned is in effect as of April 18, 2017, and applies to all PBV projects. An opinion from the PHA's legal counsel that a unit is not PHA-owned is required under the following two scenarios:

(a) The change in definition results in a project that was PHA-owned under the previous definition and was under HAP or AHAP before April 18, 2017, to no longer be PHA-owned.

(b) A change in ownership structure results in a project no longer meeting the definition of PHA-owned in effect as of April 18, 2017.

The project remains classified as PHA-owned for purposes of program requirements and monitoring until the PHA obtains an opinion from its legal counsel that the project is no longer PHA-owned for a project that fits into one of the above two categories. Except for the two instances described above, a PHA is not required to obtain a legal

opinion when determining if a unit is PHA-owned. Once the legal opinion has been

obtained, the PHA is no longer required to use an independent entity to perform the applicable responsibilities (as described in Attachment B) concerning the project. The PHA must keep the legal opinion in its files for the length of the PBV HAP contract, the HCV HAP contract, or Homeownership assistance, as applicable.

(4) Classifying a PBV project as PHA-owned due to a change in ownership. If an ownership structure changes in a manner that would cause a project to become classified as PHA-owned (e.g., the PHA ownership interest is increased to an amount greater than 50 percent), then the PHA must identify to the local HUD Field Office of Public Housing, in writing, within 30 days of the change in ownership, the proposed independent entity that will perform the applicable independent entity responsibilities. See Attachment B of this notice for more information on independent entities.

(5) Contract requirements for PHA-owned units. Because the HAP contract administrator and the owner cannot be the same legal entity (i.e., the PHA acting as contract administrator cannot execute a contract with itself as the owner of the PBV or HCV units), the PHA must establish a separate legal entity to serve as the owner. Such entity may be one of the following:

(a) A non-profit affiliate or instrumentality of the PHA;

(b) A limited liability corporation;

(c) A limited partnership;

(d) A corporation; or

(e) Any other legally acceptable entity recognized under State law.

Such an entity would serve as the owner only for purposes of execution of the HAP contract. In cases where the independent entity is required to notify the PHA, the notification requirement is satisfied by notifying the PHA itself. The entity that is serving as the owner for purposes of contract execution does not need to be notified as well.

(6) Rental Assistance Demonstration (RAD). As it pertains to conversions to the PBV program under RAD, the definition of control/ownership provided under the RAD notice (PIH–2012–32 (HA) H–2017–03, REV-3 or successor) is used specifically to determine whether a PHA retains sufficient control over a project for purposes of HUD's requirement for ownership or control of the Covered Project by a public or non-profit entity for RAD conversions.

For purposes of determining whether the PHA will be required to use an independent entity to perform certain functions concerning the project, the provisions of this notice apply to RAD PBV conversions. This means that, under certain circumstances (such as when the PHA holds only a fee interest as ground lessor in the property in which the unit is situated), a project may meet the RAD definition of ownership or control, but may not be considered to be PHA-owned under this notice. In such a circumstance, the PHA would not be required to use an independent entity.

Attachment B: PHA-Owned Units and Independent Entities

Regulation: 24 CFR §983.59, 24 CFR §982.352, and 24 CFR §982.628(d)

HOTMA Reference: Not applicable
Applicable Programs: HCV (including the Homeownership Option) and PBV
Summary of Change: HUD is changing the existing policy for independent entity review and approval by superseding the requirements established under Section III of Notice PIH 2015–
05. Notice PIH 2015–05 required a PHA to submit documentation that demonstrated or supported the independent nature of the parties' relationship. With the publication of this notice, PHAs must, instead, submit a joint certification as explained in paragraph 3, HUD independent entity approval, below.

The requirement to submit a joint certification is a change to HUD policy as laid out in the aforementioned PIH notice; it is not a change resulting from the enactment of HOTMA. HUD expects that this change will ease PHA administrative burden because PHAs will no longer need to produce documentation (such as financial statements, legal documents showing the structure of each organization, etc.) showing the independent nature of the parties. While HUD retains the right to request more information, HUD expects that this will be unnecessary in the majority of cases. This attachment also provides some examples of independent entities and includes tables that provide a visual representation of independent entity functions.

Content: If a unit is considered PHA owned (based on the definition of PHA-owned unit, as explained in Attachment A of this notice), then Section 8(o)(11) of the Act requires that the unit of general local government or a HUD-approved independent entity perform certain functions for such units. If the PHA itself is the unit of general local government or an agency of such government, then the next level of general local government may perform such functions without HUD approval. For example, if the PHA itself is the city or an agency of the city, then the county or state government may perform the functions without HUD approval.

In cases where there is no next level of general local government (e.g., the PHA is an agency of the state) or the PHA opts not to have independent-entity functions performed by the next level of general local government, then the PHA must retain the services of an independent, HUD-approved public or private entity.

For purposes of this attachment, the term "independent entity" refers to either the unit of general local government or the HUD-approved independent entity, as applicable. The provisions of this attachment apply to the HCV program (including the Homeownership Option) and the PBV program, except where otherwise noted.
PHAs are encouraged to maintain all documentation related to independent entity functions and approvals in the project file for the duration of the HAP contract.

(1) Relationship between the PHA and the independent entity. As stated in previous HUD guidance, the independent entity and PHA must be autonomous. That is, the parties must not be connected legally, financially (except with regard to compensation for services performed for PHA-owned units), or in any

other manner that could cause either party to be improperly influenced by the other. For example, the independent entity must not include individuals who have a relationship with the PHA or the project that would interfere with the entity's exercise of independent judgment in

carrying out responsibilities as they relate to the PHA-owned units.
Further, the independent entity must have the ability to perform its responsibilities in an unbiased manner, and the PHA must not take any action that could prevent the independent entity from making unbiased determinations related to its responsibilities. Examples of independent entities include, but are not limited to: PHA vendors, real estate agencies, non-profit social services agencies with affordable housing experience, and law firms specializing in affordable housing law (for example, to perform the review of the PBV selection process).

(2) Independent entity functions. The independent entity is responsible for performing certain functions for PHA-owned units. The table below provides an overview of each function to be performed by the independent entity, and its regulatory basis, under the PBV program and the HCV program (including the Homeownership Option). Any additional information on a particular function is discussed following the overview table.

Table 1: Overview of Independent Entity Functions

Function	Applicable Program: Regulatory
Review the PHA's PBV selection process.	PBV: 24 CFR §983.51(e)
Establish PBV contract rents (initial rent to owner and redetermined rent to owner).	PBV: 24 CFR §983.59(b)(1) PBV: 24 CFR §983.301(g)
Determine rent reasonableness.	PBV: 24 CFR §983.303(f)(1) HCV: 24 CFR
Determine reasonableness of the sales price and any PHA- provided financing under the Homeownership Option.	Homeownership: 24 CFR §982.628 (d)(3)(iv)
Provide a copy of the rent reasonableness determination to the PHA and the HUD field office where the project is located.	PBV: 24 CFR §983.303(f)(2)
Notify the PHA and the family of the rent reasonableness determination.	HCV: 24 CFR §982.352(b)(1)(iv)(A)(1)
Assist the family in negotiating the rent with the owner.	HCV: 24 CFR §982.352(b)(1)(iv)(A)(2)
Establish term of initial and any renewal HAP contract as required in 24 CFR §983.205.	PBV: 24 CFR §983.59(b)(2)
Inspect units.	PBV: 24 CFR §983.59(b)(3)

Function	Applicable Program: Regulatory
	PBV: 24 CFR §983.103(f)(1) HCV: 24 CFR §982.352(b)(1)(iv)(A)(3) Homeownership: 24 CFR §982.628 (d)(3)(i)
Provide a copy of the inspection report to PHA and HUD field office where the project is located.	PBV: 24 CFR §983.103(f)(2) and (3)
Communicate the results of the inspection to the family and the PHA.	HCV: 24 CFR §982.352(b)(1)(iv)(A)(3)
Review the inspection report prepared by the independent inspector designated by the family under the Homeownership Option.	Homeownership: 24 CFR §982.628 (d)(3)(ii)
Review the contract of sale under the Homeownership Option.	Homeownership: 24 CFR §982.628 (d)(3)(iii)

(a) Review of the PHA's PBV selection process. As it relates to the PBV selection process, the PHA may either choose to use an independent entity or request that the local HUD Office of Public Housing perform the review. Non- competitive selections must also be reviewed to ensure that the selection was done properly. At a minimum, the PHA must submit the following to the HUD Field Office or the independent entity, as applicable:

(i) All proposals submitted for PBV assistance in connection with the particular selection, including proposals submitted for selection in accordance with 24 CFR §983.51(b)(2);

(ii) A copy of the relevant section of the PHA's Administrative Plan;

(iii) A copy of any standard operating procedures, worksheets, checklists, or any other work product used in the selection of PBV proposals; and

(iv) If the proposal was selected pursuant to a request for proposals in accordance with 24 CFR §983.51(b)(1), a copy of the solicitation; or

(v) If the proposal was selected pursuant to a qualifying previous competition in accordance with 24 CFR §983.51(b)(2), a copy of the proposal for the previous competition, and any award letter provided in connection with the previous competition. If proposals from a previous competition are not retrievable, other documentation that demonstrates that the requirements of 24 CFR §983.51(b)(2) are met (e.g., proposal selected within 3 years of the PBV proposal selection date, proposal

selected in accordance with the applicable program's competitive selection requirements, etc.).

The HUD Field Office or HUD-approved independent entity may request from the PHA additional documentation necessary to complete the review process. The PHA's selection procedures must apply to all PBV proposals and must be designed in a manner that does not effectively eliminate the submission of proposals for non-PHA-owned units or give undue preferential treatment (e.g., additional points) to PHA-owned units. The HUD Field Office or HUD- approved independent entity must provide a letter stating that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA's Administrative Plan before the PHA may finalize the selection process.

Under HOTMA, certain PBV units may be attached to a project without a competitive selection process. More information may be found in Attachment L of this notice.

The review of the PHA selection process is waived for RAD PBV conversions.

(b) PBV rent determinations. The independent entity determines rent (initial rent to owner and redetermined rent to owner) for PHA-owned units in accordance with the same requirements as for other PBV units. PBV rent determination requirements are found at 24 CFR Part 983, Subpart G.

Rent to owner is redetermined by written notice from the independent entity to the PHA specifying the amount of the redetermined rent. The independent entity notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. Such amendments must be documented by a signed exhibit to the HAP contract.

The independent entity redetermines rent for RAD PBV units. That is, the independent entity is responsible for conducting the rent reasonableness determination and for processing Operating Cost Adjustment Factor (OCAF) adjustments for RAD PBV units.

(c) Term of existing PBV HAP contracts. The term of a HAP contract and any HAP contract extension for PHA-owned units must be agreed upon by the PHA and the independent entity. HOTMA provides that the initial term of a HAP contract may be up to 20 years (increased from 15 years) and that a HAP contract may be extended for an additional 20 years (again, increased from 15 years). See Attachment G of this notice for more information about this change.

(d) Inspection requirements. Independent entities are responsible for conducting all required inspections for PHA-owned units in accordance with program requirements. The PHA must provide families with up-to-date contact information for the independent entity and explain that a family requesting an inspection of the unit makes such a request directly to the independent entity. See Appendix IV of this notice for more information on HCV, Homeownership, and PBV inspection requirements.

(3) HUD independent entity approval. This section discusses what information must be submitted, when it must be submitted, and other requirements related to the HUD independent entity approval process.

(a) What information to submit. The PHA must include in its submission to the local HUD Office of Public Housing a joint PHA and independent entity certification, which certifies that the PHA and the proposed entity have no legal, financial, or any other connection that could cause either party to be improperly influenced by the other and that the proposed independent entity will perform its responsibilities as it relates to the PHA-owned units in an unbiased manner. The certification must be dated and signed by the executive director, or equivalent position, of the PHA and the independent entity. The certification must clearly state the name, address, and point of contact for both the PHA and the proposed independent entity.
The HUD Office of Public Housing retains the discretion to accept the certification on its face or to request additional information, or to use information available to the HUD Office, to question the validity of the certification.

(b) When to submit. The PHA must submit the independent entity for approval before the function to be performed by the entity takes place. In determining when to submit the independent entity for approval, a PHA must consider the functions that are required to be performed by the independent entity, whether the PHA will use more than one independent entity for different functions, the HUD processing time, and how all of these elements interplay with the expected action (HCV HAP contract execution, homeownership closing, PBV proposal selection, etc.).

(c) Using different independent entities. If the PHA plans to use different independent entities to perform different functions, or different independent entities at different projects, the PHA must submit for approval each independent entity it plans to use and identify the function the entity will perform. PHAs are not required to submit all independent entities at the same time.

(d) Previously approved independent entities. Once an independent entity has been approved by HUD, the PHA may use that same independent entity for other PHA-owned units or for other functions. If the PHA will use an independent entity to perform a function other than the function for which the independent entity was previously approved, then the PHA must certify in writing to HUD that it will use a previously HUD-approved independent entity to perform a new function, which must be identified in the certification. The certification must include the name of the independent entity and be dated and signed by the executive director, or equivalent position, of the PHA. The certification must clearly state the name, address, and point of contact for both the PHA and the independent entity. The entity must be qualified to perform the function or the local HUD Office of Public Housing may deny approval. For example, a law firm that was previously approved to review a PBV selection review process may not be an appropriate independent entity for the purpose of conducting inspections.

(4) Payment for independent entity services. Payment for services performed by the independent entity are the responsibility of the PHA (24 CFR 983.59(d)). The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve (i.e., Unrestricted Net Position)). The PHA may not use other HUD program receipts to compensate the independent entity for its services. MTW agencies may use other sources of funds for these purposes provided that such use is consistent with the MTW agency's HUD- approved MTW plan. Neither the PHA nor the independent entity may charge any family that occupies or will occupy a PHA-owned unit any fee for the services provided by the independent entity.

Attachment C: Percentage Limitation (Program Cap) and PHA Submission Requirements

Regulation: 24 CFR §983.6

HOTMA Reference: Sec. 106(a)(2), which amends Sec. 8(o)(13)(B) of the Act

Applicable Program: **PBV**

Summary of Change: Under HOTMA, a PHA may project-base up to 20 percent of its Consolidated Annual Contributions Contract (ACC) authorized units, instead of 20 percent of its voucher budget authority. HOTMA also establishes a 10 percent exception to this program cap (discussed in Attachment D), for units that meet the exception criteria. The changes implemented by the January 18, 2017, implementation notice supersede the reporting requirements at 24 CFR §983.6 and are explained in detail in paragraph (2), below. This Attachment C supersedes Notice PIH 2015–05, Section II, in its entirety.

Content: As described below, HOTMA authorizes a PHA to attach PBV assistance to not more than 20 percent of its ACC authorized units instead of 20 percent of its voucher budget authority. For purposes of this provision, the term "authorized units" means the number of units under the PHA's current ACC. A PHA may confirm this number in the Inventory Detail feature of the Inventory Management System/PIH Information Center (IMS/PIC). IMS/PIC may be accessed at the following HUD webpage: Inventory Management System (IMS)/PIH Information Center (PIC).

HOTMA did not change the requirement that a PHA provide advance notice to its HUD field office of its intent to project-base vouchers. While a PHA is no longer required to submit evidence of sufficient budget authority as part of this advance notice, it must still ensure that it will have budget authority sufficient to cover the PBV HAP contract at the point of contract execution.

Among other things, this Attachment describes what must be submitted to HUD, when it must be submitted, how it must be submitted, and how HUD will respond.

(1) Calculations. Appendix I provides PBV program cap calculation instructions that complement a sample *PBV Program Cap Calculation Worksheet*. The sample worksheet is available at the following webpage: PBV Program Cap Calculation Worksheet. Use of the sample worksheet is optional, and submission to HUD is not required.

(2) Revised requirements for notification to HUD.

(a) What must be submitted. The PHA must submit to the local HUD Office of Public Housing all of the following information:

(i) The number of units authorized under the ACC for the PHA;

(ii) The number of PBV units entirely excluded from the percentage limitation (as described in Attachment F of this notice);

(iii) The number of units qualifying under the 10 percent program cap exception category (as described in Attachment D of this notice);

(iv) The number of units currently committed to PBV (excluding those PBV

units meeting an exception under Attachment D or F of this notice). To arrive at the "number of units committed to PBV," total the number of units that are:

(I) Currently under PBV HAP contract;

(II) Under an Agreement to Enter into HAP contract (AHAP); and/or

(III) Covered by a notice of proposal selection (24 CFR §983.51(d)); and

(v) The number of units to which the PHA is proposing to attach project- based assistance through the new RFP or selection.

(b) When a PHA must submit information to HUD. The above information must be submitted no later than 14 calendar days prior to undertaking any of the following actions:

(i) Issuing a request for proposals (RFP) (24 CFR §983.51(b)(1));

(ii) Selecting a project based on a previous competition (24 CFR §983.51(b)(2)); or

(iii) If applicable, selecting a project without following a competitive process (see Attachment L of this notice).

(c) How to submit information to HUD. The required information must be submitted by email to pbvsubmission@hud.gov.

(d) HUD response. HUD will respond to the submission by email, identifying whether HUD has identified any issues with the submission. For example, if there is a material error in the PHA's calculations that would result in the PHA exceeding the 20 percent percentage limitation, HUD will inform the PHA of this via email. A PHA must await a response from HUD prior to proceeding with the proposal.
HUD's review and approval of the submission does not mean that it has confirmed availability of the PHA's budget authority, as this is the responsibility of the PHA.

Attachment D: PBV Percentage Limitation — 10 Percent Increase for Eligible Units

Regulation: **24 CFR §983.6**

HOTMA Reference: Sec. 106(a)(2), which amends Sec. 8(o)(13)(B) of the Act

Applicable Program: **PBV**

Summary of Change: Under HOTMA a PHA may project-base an additional 10 percent of its ACC authorized units above the 20 percent program limit, provided the additional units fall into one of the eligible exception categories.

Content: In this Attachment, the eligible exception categories are explained. The units eligible for inclusion in this 10 percent exception category may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. For example, if 10 percent of ACC authorized units is 100, the PHA may project base 50 units for homeless families and 50 units for units providing supportive housing to persons with disabilities or elderly persons.

(1) Exception Categories.

(a) Homeless. The units are specifically made available to house individuals and families who meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR §578.3. The definition of homeless is included below for convenience:[1]

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

- An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
- An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(ii) An individual or family who will imminently lose their primary

[1] See Homeless Emergency Assistance and Rapid Transition to Housing: Continuum of Care Program; Interim Final Rule.

nighttime residence, provided that:

- The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
- No subsequent residence has been identified; and
- The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;

(iii) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

- Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 1437e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
- Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
- Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
- Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(iv) Any individual or family who:

- Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life- threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to
- their primary nighttime residence;
- Has no other residence; and
- Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

(b) Veterans. The units are specifically made available to house families that are comprised of or include a veteran. A veteran is an individual who has served in the United States armed forces. The PHA may further define "veteran" in its Administrative Plan for purposes of determining if the units are eligible for this exception. For example, a PHA may choose to include in its definition of "veteran" an individual with an "other than dishonorable" discharge status who is ineligible for healthcare provided through the Veterans Health Administration. PHAs have discretion in establishing verification of eligibility.
HUD-awarded vouchers specifically designated for project-based assistance out of HUD-VASH appropriated funding are already excluded from the program cap and are not to be included under this 10 percent exception category. See Attachment F of this notice for additional information.

(c) Supportive services. The units provide supportive housing to persons with disabilities or to elderly persons. For the purpose of this exception, supportive housing means: A project that makes supportive services available for all of the assisted families in the project and provides a range of services tailored to the needs of the residents occupying such housing. Such services may include (but are not limited to):

- meal service adequate to meet nutritional need;
- housekeeping aid;
- personal assistance;
- transportation services;
- health-related services;
- case management;
- child care;
- educational and employment services;

- job training;
- counseling; or
- other services designed to help the recipient live in the community as independently as possible.

A PHA must include in its Administrative Plan the types of services offered to families for a project to qualify for the exception and the extent to which such services will be provided (e.g., length of time services will be provided to a

family, frequency of services, and depth of services). Such supportive services need not be provided by the owner or on-site, but must be reasonably available to the families receiving PBV assistance in the project. A PHA must not require participation in the supportive services as a condition of living in an excepted unit.

In accordance with 24 CFR §983.354, with the exception of an assisted living facility, the owner of a PBV project may not require the assisted family to pay charges for meals or supportive services, and non-payment of such charges by the family is not grounds for termination of tenancy. In the case of an assisted living facility (as defined in 24 CFR §983.3) receiving PBV assistance, owners may charge families for meals or supportive services. These charges may not be included in the rent to owner or the calculation of reasonable rent.

(d) Poverty rate of 20 percent or less. The units are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey 5-Year Estimates. A project that qualifies for the increased project cap at the time of HAP contract execution continues to qualify for the exception for the length of the contract regardless of changes in the poverty rate for the census tract in which the project is located. To view poverty rates by census tract, click here.

The above categories are separate and distinct from exceptions to the income-mixing requirement (project cap), which limits the number and percentage of units within a particular project to which PBV assistance may be attached. These exceptions are discussed in Attachment E of this notice. (Units that are exempt from both the program cap and the project cap are discussed in Attachment F.)

(2) Impact on existing contracts. PBV units that fall into one of the four categories listed above may be covered by this 10 percent exception authority only if the units are covered under a HAP contract that was first executed on or after April 18, 2017 (the effective date of the January 18, 2017, implementation notice).

Units added on or after April 18, 2017, through an amendment of a HAP contract that was first executed prior to April 18, 2017, are not eligible for this 10 percent exception authority.

A PHA need not meet the 20 percent program cap before it can designate eligible units for the 10 percent exception category. For example, if a PHA has project-based 10 percent of its units under the percentage limitation and wants to project-base 5 percent of its units under the 10 percent exception category, it may do so. This PHA would have 10 percent remaining under the percentage limitation and 5 percent remaining under the 10 percent exception authority.

A PHA proposal that would result in the PHA exceeding either the 20 percent program cap or the 10 percent exception from the program cap will be rejected by the HUD field office. As long as a PHA has not exceeded the 30 percent limit, it may correct its proposal by moving units from one category to the other, as long as only eligible units are counted toward the 10 percent exception from the program cap.

(3) Submission requirements. See Appendix I on calculating the number of voucher units that may be project-based. If a PHA wishes to add PBV units under this exception authority, then the PHA must identify the exception category for which the additional units will be project-based and the specific number of units that qualify under the exception category in its transmittal of the submission requirements described in Attachment C of this notice.

Attachment E: Income-Mixing Requirement (Project Cap)

Regulation: 24 CFR §983.56(a), 24 CFR §983.56(b)(1) and (2), 24 CFR §983.261(c) and (d)

HOTMA Reference: Sec. 106(a)(3), which amends Sec. 8(o)(13)(D) of the Act

Applicable Program: **PBV**

Summary of Change: HOTMA amends the income-mixing requirement for an individual project (i.e., the project cap) so that the limitation on the number of PBVs in a project is now the greater of 25 units or 25 percent of the units in a project. Previously, the limitation was 25 percent of the units in a project.

HOTMA also makes changes to the exceptions to the project cap. The following units are excluded from the 25 percent or 25-unit project cap:

- Units exclusively serving elderly families.
- Units housing households eligible for supportive services available to all families receiving PBV assistance in the project.

Also, units in projects that are in a census tract with a poverty rate of 20 percent or less are subject to a higher (40%) cap.

Lastly, HOTMA provides that HUD may establish additional requirements for monitoring and oversight of projects in which more than 40 percent of the dwelling units are assisted under a PBV HAP contract.

The previous statutory definition of project for these purposes remains the same. That is, a project may be a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. See Appendix II, paragraph (7), of this notice for more information.

Content:

(1) Project cap. The limitation on the number of units that may be project-based in an individual project is now the greater of 25 units or 25 percent of the units in a project. Below is an example to help illustrate this change. This example is meant only to illustrate this change, and does not take into account the exceptions discussed later in this section.

Project Cap: Example

Total Units in ABC Project	60
Post-HOTMA Project Cap (greater of 25 units or 25 percent of units in project)	25
Pre-HOTMA Project Cap (25 percent of units in project)	15

If a project contains 25 or fewer units, the PHA may place every unit in the project under the PBV HAP contract.

(2) Exceptions to project cap. An exception to the project cap means that a particular category of units is excluded altogether from the 25 percent or 25-unit project cap. As of April 18, 2017, the exceptions to the project cap are:

- Units exclusively serving elderly families.
- Units housing households eligible for one or more supportive services available to all families receiving PBV assistance in the project.

A PHA is not limited with respect to the number of units in a project it can make available for an excepted category or categories. A PHA may designate 100 percent of the units in a project for occupancy by an excepted category (or categories).

Prior to HOTMA, dwelling units specifically made available for households comprised of elderly families, families with a household member with disabilities, and families receiving supportive services were excepted from the project cap. HOTMA retains the exception for elderly families. It modifies the exception for families receiving supportive services so that such families must simply be "eligible for" supportive services (see section (3)(b) of this attachment). HOTMA eliminates the exception for families with a household member with disabilities.

With respect to PBV units that were excepted from the income mixing requirement under the pre-HOTMA exception for families with a household member with disabilities, the PHA must generally continue to operate under the terms of that existing contract. In other words, the pre-HOTMA exception for families with a household member with disabilities continues to apply for those units and the PHA would refer families with a household member with disabilities to the owner to fill vacancies for units covered by this pre-HOTMA exception under the HAP contract. See section 6 of this attachment for information on the impact of the HOTMA changes on excepted units for existing contracts and how changes can be made to serve additional populations.

Exceptions to Project Cap: Example

ABC Project has a total of 60 units. Twenty of the 60 units are PBV units specifically for elderly families. Units exclusively serving elderly families are excepted from the project cap. The project cap for ABC Project is 25 units (greater of 25 units or 15 units (25 percent of units in project)). A total of 45 units may be project-based in ABC Project (project cap of 25 plus the 20 excepted units).

(3) Qualifying families. With respect to units excepted from the income mixing requirement under the HOTMA exception categories, the PHA may refer only qualifying families for occupancy of excepted units under (a) and (b) below.

(a) Units for elderly families. Units that are exclusively made available to elderly families are excepted from the project cap. The term elderly family is defined in 24 CFR §5.403 as follows: "Elderly family means a

family whose head (including co-head), spouse, or sole member is a 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."

It is not necessary that the entire project or buildings within the project be designated as elderly in order for the exception to apply. Under the PBV program, projects are not "designated" as elderly as is the case in other programs, such as the Public Housing or Section 202 Elderly Programs. The owner must identify under the HAP contract, however, the particular number of units that are exclusively made available for elderly families. As each unit turns over, the PHA may amend the HAP contract to transfer the exception status from one unit to another, provided it is possible to substitute a different unit for the formerly excepted unit in the project in accordance with 24 CFR §983.207(a).

As provided under 24 CFR §983.262(e), a PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death or long-term or permanent hospitalization or nursing care of the elderly family member), the elderly family member no longer resides in the unit. In this case, the unit may continue to count as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualifying family, unless it is possible to transfer the exception status to another unit as described in the paragraph above.

(b) Units for households eligible for supportive services. Under HOTMA, dwelling units that are exclusively made available to "households eligible for supportive services that are made available to the assisted residents of the project, according to the standards for such services the Secretary may establish" are excepted from the project cap. Previously, the supportive services exception applied only if the family was receiving supportive services.

In order for the supportive services exception to apply to a unit, the project must make supportive services available to all assisted families in the project, and the family must be eligible for one or more of the services. The family may, but is not required to, participate in the services. A PHA may not require participation in supportive services as a condition of living in an excepted unit, which means that a PHA may not rely solely on a supportive services program that would require the family to engage in the services once enrolled, such as the Family Self-Sufficiency (FSS) program, for the unit to qualify for the supportive services exception.

The exception applies to any household eligible for the supportive services and is not limited to households with a family member with a

disability. The supportive services do not need to be provided by the owner or on-site, but the services must be reasonably available to the families receiving PBV assistance in the project and designed to help the families in the project achieve self- sufficiency or live in the community as independently as possible.

A PHA must include in its Administrative Plan the type of services offered to families for the units to qualify under the exception and the extent to which such services will be provided (e.g., length of time services will be provided to a family, frequency of services, and depth of services). A PHA may offer FSS as part of the supportive services package, but must not rely solely on FSS to meet the exception.

HUD encourages PHAs to consider how the structure of their supportive services package may impact a family's continued eligibility for the supportive services and the unit's excepted status. The unit loses its excepted status if the family becomes ineligible for the supportive services during its tenancy, provided that: (i) the family becomes ineligible for *all* supportive services available to the family, *and* (ii) the family becomes ineligible for reasons other than successfully completing the supportive services objective. A family that becomes ineligible for the supportive services during its tenancy cannot be terminated from the program or evicted from the unit. If the unit loses its excepted status, and the PHA does not want to reduce the number of excepted units in its project-based portfolio, the PHA may:

(i) Substitute the excepted unit for a non-excepted unit if it is possible to do so in accordance with 24 CFR §983.207(a). A PHA may wish to consider whether adding units to the HAP contract is an appropriate strategy to allow for the substitution of units. For example, Bay View Project has a total of 100 units. 50 of those units are under a PBV HAP contract and are all excepted units. In this case, the PHA may add non- excepted units to the contract (provided it is possible to do so under PBV requirements) to allow for the substitution of the excepted unit for the non-excepted unit. See section 6 of this attachment for more information on adding units to existing HAP contracts.

(ii) Remove the unit from the PBV HAP contract, and provide the family with tenant-based assistance. Once the family has moved from the unit, add the unit back to the contract in accordance with 24 CFR
§983.207(b), as amended by HOTMA. Any family newly admitted to the unit must be eligible for supportive services in order for the unit to retain its excepted status.

In the case of a family that chooses to participate in the supportive services, as described by the PHA in the Administrative Plan, and successfully completes the supportive services objective, as defined by the PHA in its Administrative Plan, the unit will continue to be an excepted unit under this category for as long as the family resides in the unit.

(4) Other units not subject to the percentage limitation and project cap. The details

and requirements of this exception category are described in Attachment F of this notice.

Increased project cap. Up to the greater of 25 units or 40 percent (instead of the greater of 25 units or 25 percent) of the units in a project may be project-based when the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey 5-Year Estimates. A project that qualifies for the increased project cap at the time of HAP contract execution continues to qualify for the exception for the length of the contract regardless of changes in the poverty rate for the census tract in which the project is located. To view poverty rates by census tract, click here.

HOTMA also provides that the 40 percent unit exception applies to projects in areas where vouchers are difficult to use, as determined by HUD. HUD has not yet defined and implemented the exception authority for these "difficult to use" areas. Therefore, the 40 percent exception applies only to census tracts with poverty rates of 20 percent or less until further notice.

Increased Project Cap:

ABC Project has a total of 80 units. ABC Project is located in a census tract with a poverty rate of 20 percent or less. The project cap for ABC Project is 32 units (greater of 25 units or 32 units (40 percent of units in project)).

Example

(5) Effect on existing contracts. Owners under HAP contracts in effect prior to April 18, 2017, the effective date of the January 18, 2017, implementation notice, remain obligated by the terms of those HAP contracts with respect to the requirements that apply to the number and type of excepted units in a project. That is, the owner must continue to designate the same number of contract units and assist the same number and type of excepted units as provided under the HAP contract during the remaining term of the HAP contract, unless the owner and the PHA mutually agree to change those requirements.

Effect on Existing Contracts: Example

An owner has a PBV HAP contract for a 20-unit project, and the HAP contract provides that 15 of those units were excepted from the 25 percent income-mixing requirement, because the units are designated for elderly families. The owner must continue to designate those units for occupancy by elderly families, notwithstanding the fact that the statutory limit on PBV has been increased to 25 units, unless the owner and the PHA mutually agree to change the terms of the assistance contract.

The PHA and owner may agree to change such HAP contract requirements as it pertains to the exception categories of elderly families and families eligible for supportive services. The PHA and owner must not change the terms of an existing HAP contract to add a new category of excepted unit (such as those under a rent restriction as defined in Attachment F of this notice), because those provisions may only be applied to contracts that become effective on or after April 18, 2017, the effective date of the January 18, 2017, implementation notice.

For projects that are using the former supportive services statutory exemption (which required that the family be receiving the supportive services) and /or the exemption for families with a household member with disabilities, the PHA and the owner will continue to operate under the pre-HOTMA requirements and will continue to renew their HAP contracts under the old requirements, unless the PHA and the owner agree by mutual consent to change the conditions to conform with the HOTMA requirement. The PBV HAP contract may not be changed to conform with the HOTMA requirement if the change would jeopardize an assisted family's eligibility for continued assistance at the project (e.g., the excepted units at the project include units designated for families with a household member with disabilities, and changing to the HOTMA standard would result in those units no longer being eligible as excepted units unless the owner makes supportive services available to all assisted families in the project).

A HAP contract may be amended, at the discretion of the PHA, to add additional PBV units in the same project. PHAs may use this amendment process to add units where applying the new project cap definition results in more PBV units. For example, ABC Project has a total of 60 units. The pre-HOTMA project cap was 15 units. The post-HOTMA project cap is 25 (greater of 25 units or 15 units (25 percent of units in project)). The existing PBV HAP contract had no excepted units. The PHA, at its discretion, may amend the HAP contract to add the 10 additional units that result from the HOTMA project cap definitional change.

As it pertains to the amendment process to add new units to an existing HAP contract, HOTMA overrides existing regulation, so that new units may be added at any time during the term of the HAP contract without being subject to competitive selection procedures. See Attachment J for more information about this change. All other requirements of 24 CFR §983.207(b) must be met, including not exceeding the 20 percent program cap (see Attachment C of this notice for more information on the 20 percent program cap).

(6) No HUD notification requirement. Unlike the program cap, there is no requirement to submit PBV project cap information to HUD.

Attachment F: Units Not Subject to Percentage Limitation (Program Cap) or Income-Mixing Requirement (Project Cap)

Regulation: 24 CFR §983.6, 24 CFR §983.56(a), 24 CFR §983.56(b)(1) and (2)
HOTMA Reference: Sec. 106(a)(2), which amends Sec. 8(o)(13)(B) of the Act, and Sec. 106(a)(3), which amends Sec. 8(o)(13)(D) of the Act

Applicable Program: **PBV**

Summary of Change: HOTMA provides that certain units do not count toward the PBV percentage limitation and are exempt from the income-mixing requirement when PBV assistance is attached to them.

Content: The following categories of units are excluded from both the percentage limitation and the income-mixing requirement if placed under HAP contract on or after April 18, 2017:

(1) Excepted units. Units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD do not count toward the percentage limitation or the income-mixing requirement.

The following categories of units in (a) or (b) are eligible for this exception provided they also meet the conditions described in (c) below:

(a) The unit received one of the following forms of HUD assistance:

(i) Public Housing Capital or Operating Funds (section 9 of the Act);

(ii) Project-Based Rental Assistance (section 8 of the Act), including units assisted under the section 8 moderate rehabilitation (Mod. Rehab.) program and Mod. Rehab. single-room occupancy (SRO) program;

(iii) Housing for the Elderly (section 202 of the Housing Act of 1959);

(iv) Housing for Persons with Disabilities (section 811 of the Cranston- Gonzalez National Affordable Housing Act);

(v) The Rent Supplement (Rent Supp) program (section 101 of the Housing and Urban Development Act of 1965);

(vi) Rental Assistance Program (RAP) (section 236(f)(2) of the National Housing Act); or

(vii) Flexible Subsidy Program (section 201 of the Housing and Community Development Amendments of 1978).

or

(b) The unit was subject to a rent restriction as a result of one of the following HUD loan or insurance programs:

(i) Section 236;

(ii) Section 221(d)(3) or (d)(4) BMIR;

(iii) Housing For the Elderly (section 202 of the Housing Act of 1959);

(iv) Housing for Persons With Disabilities (section 811 of the Cranston-

Gonzalez National Affordable Housing Act); or

(v) Flexible Subsidy Program (section 201 of the Housing and Community Development Amendments of 1978).

Units that were previously receiving PBV assistance or HCV tenant-based assistance are not covered by this exception.

(c) In addition to having received HUD assistance or having been subject to rent restrictions as described in parts (a) and (b) above, the unit must meet the following applicable conditions to qualify for this exception:

(i) PBV Existing and Rehabilitated Units.

For units that will be placed under PBV as existing or rehabilitated units:

(I) The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017; *and*

(II) In the 5 years prior to the date the PHA either (aa) issued the RFP under which the project was selected, or (bb) selected the project based on a prior competition or without competition, the unit met at least one form of assistance or was subject to a rent restriction as described above. If the existing/rehabilitated project was selected based on a prior competition or without competition, then the date of selection used to determine if the 5-year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR §983.51(d).

(ii) PBV New Construction.

A newly constructed unit developed under the PBV program may also be excluded from the limitation, provided the unit qualifies as a replacement unit. The unit must meet *all* of the following requirements to meet this exception to the limitation:

(I) The unit that the PBV newly constructed unit is replacing (i.e., the original unit) must have received one of the forms of HUD assistance or must have been subject to a rent restriction as a result of one of the HUD loan or insurance programs listed above no more than 5 years from the date the PHA either:

(aa) Issued the RFP under which the PBV new construction project was selected; or

(bb) Selected the PBV new construction project based on a prior competition or without competition. If the PBV new construction project was selected based on a prior competition or without competition, then the date of selection used to determine if the 5-

year threshold has been met is the date of the PHA written notice of owner selection under 24 CFR §983.51(d).

The newly constructed unit is located on the same site as the unit it is replacing. An expansion of or modification to the prior project's site boundaries as a result of the design of the newly constructed project qualifies as the same site as long as a majority of the replacement units is built back on the site of the original development, and any units that are not built on the existing site share a common border with, are across a public right of way from, or touch that site.

(II) One of the primary purposes of the planned development of the PBV new construction project is or was to replace the affordable rental units that previously existed at the site, as evidenced by *at least one* of the following:

(aa) Former residents of the original project are provided with a selection preference that provides the residents with the right of first occupancy at the PBV new construction project; or

(bb) Prior to the demolition of the original project, the PBV new construction project was specifically identified as replacement housing for that original project as part of a documented plan for the redevelopment of the site.

(III) The HAP contract first became effective on or after April 18, 2017.

(2) Unit-size configuration, number of units. The unit-size configuration of a PBV new construction or rehabilitation project may differ from the unit-size configuration of the original project that the PBV units are replacing. In addition, the total number of PBV assisted units may differ from the number of units in the original project. However, under no circumstances may the percentage limitation exception be applied to units that exceed the total number of covered units in the original project. For example, a PBV new construction project will consist of a total of 50 PBV units and is replacing a former section 236 project consisting of 40 units. The maximum number of PBV units that would meet the program and project limitation exception would be 40 units. The remaining 10 PBV units would count against the program and the project limitation.

(3) Applicability of PBV project-selection requirements. For owner proposals involving excepted units for existing, rehabilitated, and newly constructed properties, the standard requirements for selecting projects and the units for PBV assistance — including consistency with the PHA Plan, the goals of deconcentrating poverty and expanding housing and economic opportunities, site selection, and all civil rights requirements — remain in effect. The only difference is that any PBV assistance provided to these properties does not count against the 20 percent program cap and may be used to project-base

up to 100 percent of the units in the project. The provisions of Notice PIH 2013–27 that concern the voluntary relinquishment by families of enhanced voucher assistance for PBV assistance remain in effect. This means that, in the event of a Housing Conversion Action at a project, HCV assistance may be project-based at the project, but only if the requirements of Notice PIH 2013–

(4) 27 are met. Units at the project for which a family has voluntarily relinquished enhanced voucher assistance for PBV assistance do not count against a PHA's program cap, nor the income-mixing requirement.
These exceptions may be applied only to projects that were not already under HAP contract as of April 18, 2017 (the effective date of the January 18, 2017, implementation notice). The exception may not be applied retroactively to projects under HAP contracts that commenced before April 18, 2017, or subsequently applied at the extension of those HAP contracts.

(5) Other units not subject to the percentage limitation or income-mixing requirement.

(a) RAD. HUD has waived the statutory and regulatory provisions regarding the 20 percent percentage limitation for RAD PBV units. Under HOTMA, neither are such units subject to the income-mixing requirement, as long as they meet the conditions in section (1) of this attachment. This means that a PHA that is administering RAD PBV assistance does not take the voucher units attributable to the RAD PBV contracts into consideration when calculating the 20 percent limitation. In other words, the units committed to RAD PBV are excluded from both the numerator and the denominator when calculating the number of voucher units that may be project-based. This exception applies regardless of the effective date of the HAP contract.

(b) HUD-VASH. HUD has awarded vouchers specifically designated for project- based assistance out of the HUD-VASH appropriated funding made available from the FY 2016, FY 2015, FY 2014, FY 2013, FY 2011, and FY 2010 Appropriations Acts. Since these PBV HUD-VASH set-aside voucher allocations were made specifically for PBV assistance, HUD has determined that the PBV units supported by those vouchers will not count against the PHA's PBV program cap, for as long as the vouchers remain under PBV HAP contract at the designated project.. This means that a PHA will exclude these PBV HUD-VASH units from both the numerator and the denominator when calculating the number of authorized ACC units that are available for project- basing.
All other HUD-VASH vouchers, including non–set aside HUD-VASH vouchers that a PHA chooses to project-base, are subject to the percentage limitation.

Calculations. See Appendix I for instructions on how to calculate the number of voucher units that may be project-based when certain units no longer count toward the percentage limitation.

(6) Reporting requirement. If a PHA wishes to add PBV units under the program cap exceptions described above, then the PHA must provide the number of PBV units to which it will be attaching PBV assistance under this exception authority to HUD no later than 14 calendar days prior to the date that the PHA intends to issue the RFP or make the selection. The PHA must indicate the specific exception that covers the units. This information must be submitted by email to pbvsubmission@hud.gov.

A PHA is not required to report future RAD projects for which it will be attaching

PBV assistance, or future HUD-VASH awarded vouchers specifically designated by HUD for project-based assistance. Unlike the program cap, there is no requirement to submit PBV project cap information to HUD.

Attachment G: PBV HAP Contract: Initial Term and Extensions

Regulation: **24 CFR §983.205**

HOTMA Reference: Sec. 106(a)(4) & (5), which amend Secs. 8(o)(13)(F) & (G) of the Act

Applicable Program: **PBV**

Summary of Change: HOTMA amends Sec. 8(o)(13)(F) of the Act to provide that the initial term of a Housing Assistance Payments (HAP) contract may be up to 20 years (increased from 15 years) and Sec. 8(o)(13)(G) to provide that a contract may be extended for an additional 20 years (again, increased from 15 years).

Content: This section overrides 24 §CFR 983.205(a) and (b) only with respect to the length of the initial term and the extension of the term of the HAP contract. Otherwise, all of the other requirements of those regulations remain in effect, including the requirement on the timing of extensions following the initial extension of the contract term. (The timing of when extensions of the term may be approved is described in detail below.)

(1) Initial term. As of April 18, 2017, a PHA may enter into a new PBV HAP contract with an owner with an initial term of up to 20 years. As was the case previously, the length of the initial term of the HAP contract may not be less than one year.

(2) Maximizing the initial term. For any PBV HAP contract that is still within the initial term, the PHA and the owner may mutually agree to extend the contract for up to the maximum initial term of 20 years.

For example, if the HAP contract has an initial term of 15 years with an effective date of January 1, 2015, the initial term of the contract ends on December 31, 2029. At any time before the end of the initial term, the PHA and owner may mutually agree to extend the initial term for an additional 5 years to reach the 20 year maximum initial term. For instance, in this example the PHA and owner may extend the initial term to December 31, 2034, provided they do so no later than December 31, 2029.

However, if the HAP contract is no longer in the initial term, the PHA and owner *cannot* extend the initial term, although they may enter into an extension beyond the initial term (see below).

Assume the PHA and owner entered into a HAP contract with a 10 year initial contract term on January 1, 2000. The initial term ended on December 31, 2009. During the initial term, the PHA and owner extended the contract term for 10 additional years. As a result, the HAP contract remains in effect until December 31, 2019. In this case, the PHA and owner are not able to extend the initial term of this HAP contract to 20 years because the contract already is beyond the initial term. (However, the PHA and owner may mutually agree to further extend the current 10 year extension as discussed below.)

(3) Extension of the term. The PHA may extend the term of the contract for up to 20 years at any time during the initial HAP contract term, provided the PHA determines an extension is appropriate to continue providing affordable housing for low-income families.

The PHA may extend the term multiple times at any time during the term of the

contract, provided that extension beyond the initial term does not exceed 20 years, cumulatively. (See examples below.)

(4) Subsequent extensions beyond 20 years. A PHA may further extend the HAP contract beyond 20 years from the end of the initial term as long as the following conditions are met:

(a) The PHA must determine such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities;

(b) This determination must be made no earlier than 24 months prior to the expiration of the HAP contract.

(c) The term of the new extension may not exceed 20 years.

Regardless of the length of the extension, all such extensions must meet these same conditions.

(5) PHA owned units. In the case of PHA-owned units, any changes to the term of an initial HAP contract or any contract extension must be agreed upon by the PHA and the independent entity, in accordance with 24 CFR §983.59.

(6) Initial Term and Extension Examples. The following examples are intended to illustrate a number of common scenarios regarding HAP contract initial terms and extensions.

Scenario 1

The PHA and owner wish to enter into a new PBV HAP contract effective January 1, 2018, for the maximum time period that is permitted under the PBV program. The maximum contract term that the PHA may commit is 40 years.

Contract	**Term**	**Start Date**	**End Date**	**Notes**
Initial Term	20 yrs	1/1/18	12/31/37	Maximum 20 year term.
Extension	20 yrs	1/1/38	12/31/58	PHA may extend at any time before 12/31/37.
Total Term	40 yrs	1/1/18	12/31/58	Any further extension may not be determined prior to 12/31/56 (24 months prior to expiration date of the 20-year extension.)

Scenario 2

HAP contract is currently in effect with the following term:

Current Term	Term	Start Date	End Date	Comments
Initial Term	15 yrs	1/1/16	12/31/30	PHA and owner entered into a 15 year initial term, which was the maximum initial term at the time.
Extension	15 yrs	1/1/31	12/31/45	PHA and owner have previously agreed to 15 year extension.
Total Term	30 yrs	1/1/16	12/31/45	Contract is at pre-HOTMA maximum term of 30 years.

Following the implementation of the HOTMA provision, for example in July 2017, the PHA and owner mutually agreed to extend this contract's initial term and the extension to the maximum term that is permitted under HOTMA.

Revised Term	Term	Start Date	End Date	Comments
Initial Term	20 yrs	1/1/16	12/31/35	Because the HAP contract is still in the initial term, the initial term may be adjusted. It is now the maximum 20 years.
Extension	20 yrs	1/1/36	12/31/55	PHA and owner also revised the length of the existing extension to the 20 year maximum.
Total Term	40 yrs	1/1/16	12/31/55	Contract is at post-HOTMA maximum term of 40 years. PHA may consider further extension but not until 12/31/53.

Scenario 3

The HAP contract has the following terms.

Current Term	Term	Start Date	End Date	Comments
Initial Term	10 yrs	1/1/05	12/31/14	Initial term is over.
Extension	15 yrs	1/1/15	12/31/29	PHA and owner have previously agreed to 15 year extension.
Total Term	25 yrs	1/1/05	12/31/29	Contract is currently for 25 years.

Following the implementation of the HOTMA provision, the PHA decides it wants to extend the contract so that the term is 40 years. However, the PHA cannot extend the initial term since it has already been completed. The PHA is also limited to extending

the contract beyond the initial term to no more than 20 years at the present time. The maximum term the PHA could provide at this time is 30 years, with the understanding that the PHA will consider further extending the contract when the contract is within 24 months of the revised expiration date.

Revised Term	Term	Start Date	End Date	Comments
Initial Term	10 yrs	1/1/05	12/31/14	No change – the initial term is already over and may not be extended.
Extension	20 yrs	1/1/15	12/31/34	After April 18, 2017, the PHA and owner have now increased the extension from 15 years to the maximum of 20 years beyond the end of the initial term.
Total Term	30 yrs	1/1/05	12/31/34	Contract has maximum term of 30 years.
Future Extension	May not exceed 20 years	1/1/35	TBD	PHA may consider further extension no earlier than 12/31/32 (24 month requirement).

Scenario 4

The PHA enters into a new HAP contract effective 1/1/18 for the maximum 20 year initial term. The PHA wishes to extend the contract but for no more than 10 years at a time.

Contract Term	Term	Start Date	End Date	Comments
Initial Term	20 yrs	1/1/18	12/31/37	
Potential Extension #1	10 yrs	1/1/38	12/31/47	PHA may approve this first extension anytime before the initial term expires on 12/31/37.
Potential Extension #2	10 yrs	1/1/48	12/31/57	PHA may approve this second extension anytime before the first extension expires on 12/31/47.
Potential Extension #3	10 yrs	1/1/58	12/31/67	PHA may not make the determination to approve this extension earlier than 12/31/55 (24 months prior to the expiration of the previous extension), because any further extension will exceed the 20-year limit from the end of initial term.

Contract Term	Term	Start Date	End Date	Comments
Potential Extension #4	10 yrs	1/1/68	12/31/77	PHA may not make the determination to approve this future extension earlier than 12/31/65 (24 months prior to the expiration of the previous extension), because the contract is now more than 20 years beyond the end of the initial term.

Once the extension beyond the initial term has reached 20 years, cumulatively, the PHA may not further extend the contract without first determining such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities, and the PHA may not make that determination more than 24 months prior to the expiration of the previous extension. In this example, the PHA must fulfill that requirement starting with the 3rd potential extension, since the combination of the first and second extensions (each for 10 years) have reached the 20-year maximum.

Attachment H: Priority of PBV HAP Contracts

Regulation: **24 CFR §983**

HOTMA Reference: Sec. 106(a)(4), which provides for a new Sec. 8(o)(13)(F)(i)(I) of the Act

Applicable Program: **PBV**

Summary of Change: HOTMA establishes a new Sec. 8(o)(13)(F)(i)(I), which requires that, in the event appropriated funds are insufficient to fund all vouchers administered by a PHA, the PHA must implement cost-savings measures before terminating any PBV HAP contract.

Content: Cost-saving measures that must be taken prior to terminating assistance contracts are found in Notice PIH 2011–28 ("Cost-Saving Measures in the Housing Choice Voucher (HCV) Program") or subsequent notices. If a PHA implements all of these cost saving measures and still has insufficient funds to cover its housing assistance payments, then the PHA may choose to terminate payments under its HCV or PBV programs.

A PHA may identify in its Administrative Plan any additional cost-saving measures that it will implement prior to terminating HCV or PBV assistance.

A PHA may determine which type of assistance (HCV or PBV) to terminate first and must identify in its Administrative Plan the factors it considered in making this determination.

Attachment I: PBV Biennial Inspections

Regulation: 24 CFR §983.103

HOTMA Reference: Sec. 106(a)(4), which amends Sec. 8(o)(13)(F) of the Act

Applicable Program: **PBV**

Summary of Change: HOTMA modifies the statutory language regarding the inspection of PBV-assisted units to clarify that biennial inspections of PBV-assisted properties may be conducted using a sample of units. There is no change to the regulatory requirements at 24 CFR §983.103.

Content: The HOTMA change merely clarifies that the use of sampling is authorized for PBV-assisted units; it does not affect the guidance in Notice PIH 2016–05 ("Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies"), which remains in effect. Additionally, HOTMA does not change 24 CFR §983.103(d), governing biennial inspections. Attachment K to Notice PIH 2016–05 provides guidance to PHAs that wish to adopt alternative inspection methods.

Attachment J: Adding Units to PBV HAP Contract Without Competition Regulation: **24 CFR §983.207(b)**

HOTMA Reference: Sec. 106(a)(4), which provides for a new Sec. 8(o)(13)(F)(ii) of the Act

Applicable Program: **PBV**

Summary of Change: Prior to HOTMA, the regulation at §983.207(b) stipulated that a HAP contract could be amended to add units only during the 3-year period following the HAP execution date, and that, within this timeframe, a new PBV Request for Proposals would not be required. HOTMA overrides the regulation, stating that new units may be added at any time during the term of the HAP contract without being subject to competitive selection procedures.

Content: As of April 18, 2017, any existing PBV HAP contract, including a contract entered into prior to April 18, 2017, may be amended to add units by mutual agreement of the PHA and owner without competitive selection. The amendment is subject to all PBV requirements, including those requirements described below.

(1) Percentage limitation. The amendment must comply with Sec. 8(o)(13)(B) and 24 CFR §983.6, which require that a PHA may project-base not more than 20 percent of its authorized units, with some types of units excepted from this program cap. HOTMA changed how this percentage limitation is to be calculated. See Attachment C and Appendix I of this notice for instructions on how to make the calculation and report the results to HUD, both of which must be done prior to amending a contract to add units.

(2) Income-mixing requirement (project cap). The amendment must comply with Sec. 8(o)(13)(D) and 24 CFR §983.56, which limit the number or percentage of units in any one project to which PBV assistance may be attached, with exceptions for certain types of units. HOTMA made changes to the income-mixing requirement. See Attachment E of this notice for further information on the PBV income-mixing requirement. Any units added on or after April 18, 2017, must fall under one of the HOTMA exception categories in order for the unit to be excepted from the income- mixing requirement.

(3) Rent reasonableness. The rents for the units added to the contract via amendment must comply with Sec. 8(o)(10)(A) and §983.303, which require that rents be reasonable. If the units newly added to the contract have rents that do not exceed the rents charged for units under the original contract or for comparable unassisted units in the project, then the rents for the newly added units will be considered to be reasonable.

(4) Administrative Plan. Whether to add units to a contract is an option that is available at the discretion of a PHA. A PHA that intends to add PBV units in this manner must state in its Administrative Plan that it will do so and must provide its rationale for adding PBV units to specific projects.

(5) Amendment of RAD PBV HAP contract. A PHA may not amend a RAD PBV HAP contract to add units above the number included in the initial contract.

A PHA may amend its PBV HAP contract to add units without competitive selection during the term of an initial HAP contract or during the term of any extension of that contract. The amendment may also occur at the point of initial contract extension or

at the point of any subsequent extension, so that the contract extension will have a greater number of units than the previous contract. However, the anniversary and expiration dates of the HAP contract for the additional units must be the same as the anniversary and expiration dates of the HAP contract term for the PBV units originally in place under the HAP contract.

24 CFR §983.58(c) does not apply when PBV units are added to a current PBV HAP contract. In other words, an environmental review is not required, and there is therefore no need for any sort of determination by a responsible entity.

Attachment K: PBV Contract Termination or Expiration without Extension

Regulation: **24 CFR §983**

HOTMA Reference: Sec. 106(a)(4), which provides for a new Sec. 8(o)(13)(F)(iv) of the Act

Applicable Program: **PBV**

Summary of Change: With respect to a PBV HAP contract, HOTMA requires the contract to specify that, upon termination or expiration of the contract without extension, an assisted family may elect to remain in its unit and use the assistance previously provided under the contract, as long as the unit meets HUD's housing quality standards and the rent for the unit is reasonable. In such a circumstance, the family may choose to move or to remain in the unit. If the family remains, it will pay its required share of the rent in addition to the amount, if any, by which the gross rent exceeds the applicable payment standard. HOTMA also authorizes HUD to establish additional contract conditions.

Content: This provision applies to all PBV HAP contracts in effect as of April 18, 2017, and all contracts entered into on or after April 18, 2017. HOTMA establishes for PBV-assisted families a right to remain in the project at the end of the PBV HAP contract with tenant-based assistance for as long as the project is used for rental housing and the unit is otherwise eligible for HCV assistance.

(1) Owner notification. For any contract entered into prior to April 18, 2017, that remains in effect on that date, a PHA must notify the owner in writing that this provision is in effect. The notice must contain the following language:

> "Pursuant to Section 106(a)(4) of the Housing Opportunity Through Modernization Act of 2016 and Paragraph 26.b. of Part 2 of the PBV HAP Contract for Existing Housing or Paragraph 27.b. of Part 2 of the PBV HAP Contract for New Construction or Rehabilitation, such contract is amended to provide that, upon termination or expiration of the contract without extension, each family assisted under the contract may elect to use its assistance to remain in the same project if the family's unit complies with the inspection requirements under section 8(o)(8) (42 U.S.C. 1437f(o)(8)) of the U.S. Housing Act of 1937 ("the 1937 Act"), the rent for the unit is reasonable as required by section 8(o)(10)(A) of the 1937 Act, and the family pays its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard."

Any contract entered into on or after April 18, 2017, must include this language.

(2) Statutory notice. Per the statutory notice requirements at Sec. 8(c)(8) and 24 CFR §983.206, not less than 1 year prior to the termination or expiration without extension of a HAP contract, an owner must provide notice to both the PHA and affected tenants. An owner who fails to provide such notice must permit tenants to remain in their units for the required notice period with no increase in the tenant portion of the rent. During this time period, an owner may not evict a tenant as a result of the owner's inability to collect an increased tenant portion of rent. With PHA agreement, an owner may renew the terminating contract for a period of time sufficient to give tenants 1 year's advance notice. For families who wish to remain at the property, the

HCV assistance does not commence until the end of the owner's required notice period.

(3) Housing quality standards. In order for the family to remain at the project with tenant- based HCV assistance, the unit must meet the ~~HQS~~ **NSPIRE** requirements of the HCV tenant- based program, including initial inspection requirements. HOTMA made a number of changes related to the initial inspection requirements. (See Notice PIH 2017–20, issued October 27, 2017.)

(4) Effective date of HCV HAP and family leases. The transition from PBV HAP units to HCV HAP units will require the PHA and owner to plan to assure continued payments for families under lease and continued payments to the owner of units under HAP. The following requirements apply:

(1) A PHA may execute an HCV HAP contract before the PBV HAP contract terminates, but the HCV HAP contract may not be effective prior to the PBV contract termination or expiration date.

(2) A PHA may not commence the tenant-based HCV housing assistance payment to an owner until the HCV tenant-based HAP contract has been executed.

(3) The HCV HAP contract may not be executed before the PHA approves the assisted tenancy in accordance with 982.305. An HCV HAP contract for a family must be executed no later than 60 calendar days from the start of the family's lease. PHAs are encouraged to approve the assisted tenancy and execute the HCV HAP contract without need for the 60-day grace period. If this is not possible, then, as long as the HCV HAP contract is executed during the 60-day grace period, once it has been executed, the PHA may pay the owner retroactively to the start date of the family's lease term.

(4) If the HCV HAP contract has a different rent than did the PBV HAP contract, and the new rent is determined by the PHA to be reasonable, then the PHA will use the new gross rent to calculate the family's HCV HAP going forward. The family will be responsible for paying the new family rent to owner starting from the effective date of the HCV HAP contract.

(5) Inapplicability of HCV eligibility requirements. Per the current definition of "admission" in 24 CFR §983.3, a family that receives a tenant-based HCV pursuant to this newly enacted provision is not a new admission to the HCV program and is not subject to income-eligibility or any other admission requirement. The family does not count toward the PHA's income-targeting requirements at 24 CFR §982.201(b)(2)(i).

(6) Termination of tenancy by owner. An owner may not terminate the tenancy of a family that exercises its right to remain except for in response to serious or repeated lease violations, or other good cause.

(7) Family payment toward rent. A family that remains in its unit with continued tenant- based HCV assistance must pay the total tenant payment (determined

under 24 CFR part 5 subpart F) and any additional amount by which the unit rent exceeds the applicable payment standard. The family's initial share of the rent may exceed 40 percent of the family's adjusted monthly income, irrespective of the normally applicable restriction on the amount a family may pay when initially assisted in any unit at 24 CFR §982.305(a)(5).

HCV program rules. All other HCV program rules apply to families who remain in the project.

With respect to additional contract conditions, HUD has chosen not to adopt any such conditions at this time.

Attachment L: Attaching PBVs to Certain PHA-Owned Projects Without Following a Competitive Process

Regulation: 24 CFR § 983.51(b)

HOTMA Reference: Sec. 106 (a)(9), which adds Sec. 8(o)(13)(N) to the Act

Applicable Program: **PBV**

Summary of Change: HOTMA adds section 8(o)(13)(N) to the Act, which allows a PHA to attach PBV assistance to units in a project in which the PHA has an ownership interest or over which the PHA has control without following a competitive process. In order to exercise this authority, the PHA must be engaged in an initiative to improve, develop, or replace a public housing property or site.

Content:

(1) PHA ownership interest. A project does not have to meet the definition of PHA-owned in order for the PHA to have an ownership interest in the project and to be covered by this HOTMA provision. An ownership interest means that the PHA or its officers, employees, or agents are in an entity that holds *any direct or indirect interest* in the project in which the units are located, including, but not limited to, an interest as: titleholder; lessee; stockholder; member, or general or limited partner; or member of a limited liability corporation. For purposes of this authority, a PHA ownership interest also includes a scenario in which the PHA is the lessor of the ground lease for the land upon which the PBV project to improve, develop, or replace the public housing property is located or will be constructed. Units that meet the definition of "PHA- owned" as defined here qualify for this exception. Alternatively, just having an ownership interest for the purpose of this provision does not equate with meeting the definition of PHA-owned as defined in Attachment A.

(2) Conditions for non-competitive selection. In order to be subject to this non- competitive exception, the following conditions must be met:

(a) The PHA must be engaged in an initiative to improve, develop, or replace the public housing properties or sites. The public housing properties or sites may be in the public housing inventory or they may have been removed from the public housing inventory through any available legal removal tool (which may include but is not limited to disposition or demolition under Section 18 of the Act, voluntary

conversion under Section 22 of the Act, or required conversion under Section 33 of the Act) within 5 years[2] of the date on which the PHA entered into the AHAP or HAP pursuant to the non-competitive selection.

(b) If the PHA plans rehabilitation or new construction, a minimum threshold of
$25,000 in hard costs per-unit is required.

(c) If a PHA plans to replace public housing by attaching project-based assistance to existing housing in which the PHA has an ownership interest or over which the PHA has control, then the $25,000 per-unit minimum threshold does not apply as long as the existing housing substantially complies with HUD's housing quality standards. The PHA's Administrative Plan must describe what it means to "substantially comply with HUD's housing quality standards."

(d) The PHA must explain in its Administrative Plan the work it plans to do on the property or site and how many units of PBV it plans to add. See Administrative Plan Requirements in the Appendix II to this notice.

(e) Other PBV requirements. In order to be non-competitively selected under this provision, the units must be eligible for PBV assistance in accordance with 24 CFR

(f) §983.53, and the selection of the units must satisfy all other statutory and regulatory requirements of the PBV program. Unless otherwise exempt, units non-competitively selected under this section are subject to the program cap and income-mixing requirements and exceptions discussed in Attachment F.

(g)

[2] The date on which the unit was removed from IMS/PIC serves as the start date for the 5-year window.

Attachment M: Project-Basing Family Unification Program and HUD-VASH Vouchers

Regulation: **24 CFR §983**

HOTMA Reference: Sec. 106(a)(9), which added a new Sec. §8(o)(13)(O) of the Act
Applicable Programs: HCV and PBV
Summary of Change: HOTMA allows PHAs to project-base Family Unification Program (FUP) and HUD-Veterans Affairs Supportive Housing (VASH) vouchers without requiring additional HUD approval. Prior to HOTMA, PHAs were prohibited from project-basing vouchers awarded for FUP. HUD-VASH vouchers could be project-based but required HUD review and approval in accordance with Notice PIH 2015–10 (this applied to HUD-VASH vouchers the PHA chose to project-base and not to HUD-VASH units awarded under a HUD- VASH PBV allocation as described in Attachment F of this notice). This notice supersedes Notice PIH 2015–10 in its entirety.
PHAs conduct their HUD-VASH programs in conjunction with the Veterans Affairs Medical Center (VAMC). The VAMC must make supportive services available to individuals receiving HUD-VASH assistance. Thus, when a PHA chooses to project-base its HUD-VASH vouchers, it must ensure the VAMC will continue to make supportive services available to the HUD-VASH families.
Content: HOTMA authorizes PHAs to project-base FUP and HUD-VASH vouchers in accordance with the statutory and regulatory requirements of the PBV program.

(1) Considerations. HUD encourages PHAs wishing to project-base FUP or HUD-VASH vouchers to include in their considerations whether the activity:

- Will yield significant benefit to participants.
- Will impact the availability of tenant-based FUP or HUD-VASH vouchers;
- Will impact voucher utilization; and

In determining whether project-basing will yield significant benefit to FUP or HUD-VASH participants, HUD encourages PHAs to consider:

- The impact on choice and access to areas of higher opportunity.
- The success of FUP and HUD-VASH participants with tenant-based vouchers.
- How project-basing will improve FUP or HUD-VASH participants' access to supportive services.

In determining the impact of project-basing on the availability of tenant-based FUP or HUD-VASH vouchers, HUD encourages PHAs to consider:

- The extent of FUP or HUD-VASH vouchers to be project-based (percent of total FUP or HUD-VASH allocation).
- Unit size. FUP youth and HUD-VASH veterans typically require a smaller unit size, while FUP families typically require a larger unit size. Unit size determination will impact the availability of budget authority to issue vouchers (i.e., a large unit may cost more than a small unit).
- The 36-month time limit on youth FUP vouchers and whether youth will be

less or more likely to request a voucher to move.

Project-basing FUP vouchers may be a part of a PHA strategy to provide supportive housing to youth and families. PHAs may leverage the project-based units with community-based services and supports. Following this model would also allow a PHA to project-base additional units as a result of the service provision. (See Attachment E.)

When a PHA chooses to project-base their HUD-VASH vouchers, they must ensure they have the support of the partnering VAMC. The PHA should maintain this documentation of support for their records.

(2) Coordinated entry and referrals. PHAs may work with their local Continuum of Care (CoC), in cooperation with their local Public Child Welfare Agency (PCWA), to prioritize entry into FUP PBV units to ensure that the units are targeted to people who most need supportive housing. For HUD-VASH, VA partners would ensure that the units are targeted to people who most need supportive housing.

For FUP, PCWAs and PHAs may accept referrals from CoCs for eligible youth in support of a community's effort to prioritize assistance in FUP PBV units. Referrals from CoCs must be signed off on by the PCWA. For HUD-VASH, all referrals come from the partnering VAMC.

(3) Limiting FUP vouchers to one category of FUP eligible families. A PHA that chooses to project-base FUP vouchers may limit the project-based vouchers to one category of FUP eligible participants (families or youth) or a combination of the two. FUP vouchers that are limited to youth cannot exclude eligible youth with children consistent with the nondiscrimination requirements under the Fair Housing Act. For example, a PHA may project-base vouchers at a service-rich site for youth. PHAs generally do not similarly limit HUD-VASH project-based vouchers to a category of eligible participants, unless the units are specifically for elderly HUD-VASH families.

Appendices

Appendix I. PBV Program Cap Calculation Instructions

This appendix provides step-by-step instructions that complement a sample *PBV Program Cap Calculation Worksheet* that may be found here: PBV Program Cap Calculation Worksheet. The instructions and sample worksheet follow the same organizational structure. As applicable, the instructions reference corresponding step and line numbers of the worksheet.

Use of the worksheet is optional. PHAs may use another form to calculate and submit the program cap information to HUD.

Summary Table

PHAs are advised to complete Steps 1 through 5 of the worksheet first and then review the "Summary Table." This table contains embedded formulas that automatically calculate, among other things, the 20 percent program cap and the 10 percent program cap exception category, based on the information entered by the PHA in Steps 1 through 5. PHAs will be unable to enter information in the Summary Table.

Based on the number of units a PHA has already project-based, the number it proposes to project-base, the number of such units that are part of the exception category, and the number that are excluded entirely from the program cap, the Summary Table will show whether the PHA's proposal will push it above the applicable program cap(s).

In cases where a PHA's submission will place the PHA above a program cap, the Summary Table will display in red the percent available under the respective cap. For example, if a PHA proposes to project-base 11 percent of its available ACC units under the 10 percent exception category, then the 10 percent program cap field in the summary table will be highlighted in red. The PHA must then either reduce the number of exception units it proposes to project- base or, if the 20 percent cap has not been met, it may move units to the 20 percent program cap category. Likewise, if the PHA's proposal will cause it exceed the 20 percent cap, then it may move units to the 10 percent exception category, but only if the units are eligible and there is room within the 10 percent category for additional units.

General Instructions for Completing Steps 1 through 5

In the column titled "HUD Approved," enter the total number of units currently under a PBV HAP contract, under an Agreement to Enter into a HAP contract (AHAP), and/or covered by a notice of proposal selection.

In the column titled "Proposed," enter the number of units proposed for project-basing. In Steps 2 through 5, enter a zero in each category that is not applicable to your agency.

A unit that qualifies under more than one exception category must be recorded in only one such category.

PHA Information – (lines 2-6):

Instruction: Enter the PHA number in line 2 and the PHA name in line 3.
Enter the name of the person most familiar with the information on the worksheet in line 4 and that person's email in line 5.
Enter the date the *PBV Program Cap Calculation Worksheet* is being completed in line

Step 1: Number of ACC Authorized Units (Baseline) – (line 17)

Instruction: In line 17, record the number of authorized units (as described in Attachment C of this notice). This number may be found in the Inventory Management System/PIH Information Center (IMS/PIC).

As Steps 2 and 3 are completed, the number in line 17 may be reduced. This is because Steps 2 and 3 involve tabulating units that are exempt from the program cap.

Step 2: PBV Units that Previously Received Long-Term HUD Housing Subsidies, or were Subject to a Rent Restriction as a Result of Certain HUD Loan Insurance Programs (For PBV HAP Contracts that First Became Effective on or After April 18, 2017) – (lines 20-28)

Instruction: Record units that were previously subject to certain federal rent restrictions or that received another type of long-term housing subsidy provided by HUD that do not count toward the program cap when PBV assistance is attached (as described in Attachment F of this notice). Lines 20-28 of the *PBV Program Cap Calculation Worksheet* lists the categories applicable under this step. Units entered in any of the categories under this step must fully comply with the conditions described in Attachment F of this notice.

Line 29 automatically calculates the total based on the information entered in lines 20-28. PHAs will be unable to enter information in line 29.

Step 3: Other PBV units excluded from program cap calculation – (lines 32-35)

Instruction: Record other units excluded from the program cap (as described in Attachment F of this notice). There are two categories under this step: RAD units (components 1 and 2) and HUD-VASH units awarded under a HUD-VASH PBV set-aside allocation as described in Attachment F of this notice. These categories are listed in lines 32 through 34.

Line 35 automatically calculates the total based on the information entered in lines 32-34. PHAs will be unable to enter information in line 35.

Step 4: PBV Units Categorized Under 10% Increase for Eligible Units (For PBV HAP Contracts First Executed on or After April 18, 2017) – (lines 38-41)

Instruction: Record units that qualify under the 10 percent program cap exception (as described in Attachment D of this notice). Lines 38-41 of the *PBV Program Cap Calculation Worksheet* list the categories applicable under this step.

Any PBV units awarded under a HUD-VASH PBV set-aside allocation will not qualify under this step. They must instead be entered under Step 3, above. Any HUD-VASH vouchers the PHA chooses to project-base as described in Attachment M of this notice may be recorded here if they qualify for the 10 percent exception category described in Attachment D of this notice.

Line 42 automatically calculates the total based on the information entered in lines 38-41. PHAs will be unable to enter information in line 42.

Units added on or after April 18, 2017, through an amendment of a HAP contract that was first executed prior to April 18, 2017, are not eligible for this 10 percent exception authority.

Step 5: Total PBVs not Meeting an Exception (not contained in steps 2-4 above) – (lines 45-46)

Instruction: In line 45, record the number of HUD-approved units that do not meet the criteria for being included under Steps 2, 3, or 4, above. In line 46, record such units that the PHA proposes to project-base.

Appendix II. PHA Plan, Administrative Plan, and Other PBV Topics

This appendix addresses PHA Plan requirements, Administrative Plan requirements, and other PBV topics. It contains provisions of Notice PIH 2011–54 that are unchanged by HOTMA, provisions that are added or changed by HOTMA, and additional guidance on the PBV program that HUD is implementing via this appendix.

PHA Plan Requirements

In accordance with Section 7.0 of the PHA Plan Template (see Notice PIH 2015–18 (*Availability of New and Revised Public Housing Agency (PHA) Five-Year and Annual Plan Templates and Other Forms)*) and the requirements of HOTMA, if a PHA intends to use the PBV program, it must provide the projected number of PBV units, their general locations, the work it plans to do on the property or site, how many units of PBV it is planning on adding to the site, and how project-basing is consistent with its PHA Plan. Any amendment to the PHA Plan regarding PBVs must be in accordance with 24 CFR 903.7(r)(2)(ii), which requires the PHA to identify the basic criteria for determining a significant amendment or modification to its 5-year or annual PHA Plan. When amending a PHA Plan, the agency must follow 24 CFR 903.21 which, in part, provides for adoption by the board of directors or similar governing body and public notice and comment.

Administrative Plan Requirements

Listed below are those policies and procedures that must be addressed in the PHA's Administrative Plan.

(1) Unchanged by HOTMA:

(a) The procedures for owner submission of PBV proposals and for selection of those proposals, such as method of providing public notice, deadline for submission and selection factors. See 24 CFR 983.51(a), (b) and (c). If the PHA intends to use both competitive and non-competitive procedures, it must describe under what conditions it will use each method of selection. It is acceptable for a PHA to state that it will only use competitive selection procedures when non-competitive selection is not applicable. However, if the PHA intends to use both competitive and non-competitive selection of proposals, the procedures above must be described in the Administrative Plan.

(b) The standard for deconcentrating poverty and expanding housing and economic opportunities must be described in the Administrative Plan in accordance with 24 CFR 983.57(b)(1). In addition, the PHA must establish its policy for selection of PBV sites and describe how the site selection policy promotes PBV goals.

(c) Applicants for PBV units must be selected from the PHA's waiting list. The PHA's Administrative Plan must describe how applicants will be selected. There are various options for a PHA in establishing PBV waiting lists. It may use separate lists for tenant-based assistance and PBV assistance or it can use one list for both. The PHA may establish separate waiting lists for different PBV projects or buildings (or for sets of such units). Different preferences may be established for each PBV waiting list. PHAs may take referrals from PBV

owners. However, all new applicants and families currently on the PHA's tenant-based waiting list must be provided with the option to have their names placed on all/any open waiting lists that the PHA maintains for assisted housing. See 24 CFR 983.251. PHAs do not have to notify each family on the tenant-based waiting list by individual notice. A PHA could notify these applicants by the same means it would use in opening its waiting list under 24 CFR §982.206(a). A non-exclusive or exhaustive list of suggestions are: (1) advertising through local and minority newspapers and the internet; (2) local postings at post offices, libraries, and community centers; and (3) an outreach to social service organizations that may serve the same clientele that will be occupying the PBV units.

(d) Any tenant screening done by the PHA must be stated in the Administrative Plan. See 24 CFR 983.255(a).

(e) The PHA must have a policy in its Administrative Plan regarding family occupancy of wrong-size or accessible units. In cases where, after initial tenancy, the family is occupying a wrong-sized unit or a unit that has accessibility features not required by the family, it must describe the form(s) of continued assistance it will offer the family. See 24 CFR 983.260(b).

(f) At the PHA's discretion, the PBV HAP contract may provide for vacancy payments to the owner. Therefore, the PHA must decide if it will pay such vacancy payments as defined under 24 CFR 983.352. The maximum vacancy payment can be no more than two full months of monthly rent to owner under the assisted lease after the month the family moves out minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Vacancy payments can only cover the portion of time the unit remains vacant during the period defined.

(2) Added or Changed by HOTMA:

(a) If a PHA plans to exceed the cap on the number of units in a project that may have PBV attached for non-elderly families (i.e., the greater of 25 dwelling units or 25 percent of the dwelling units in any project), the Administrative Plan must describe the types of services offered to families for a project to qualify for the exception and to the extent to which such services will be provided. Such supportive services need not be provided by the owner or on- site but must be reasonably available to the families receiving PBV assistance in the project. A PHA may not require participation as a condition of living in an excepted unit for HAP contracts executed on or after April 18, 2017. although such services may be offered. See Attachment E of this notice for more information.

(b) A PHA must detail its intent to add PBV units without competition to an existing HAP contract along with its rationale for adding PBVs to the specific project.

(c) If A PHA has insufficient funds to cover its housing assistance payments, then the PHA must take cost-saving measures prior to terminating assistance

contracts. The list of cost-saving measures is found in Notice PIH 2011–28 ("Cost-Saving Measures in the Housing Choice Voucher (HCV) Program") or subsequent notices. If a PHA implements all of these cost-saving measures and still has insufficient funds to cover its housing assistance payments, then the PHA may choose to terminate payments under its HCV or PBV programs. A PHA may identify in its Administrative Plan any additional cost-saving measures that it will implement prior to terminating HCV or PBV assistance. A PHA may decide which type of assistance (HCV or PBV) to terminate first and must therefore identify in its Administrative Plan the factors it will take into consideration when deciding which type of assistance to terminate first. A PHA may identify in its Administrative Plan any additional cost-saving measures that it will implement prior to terminating HCV or PBV assistance and must identify in its Administrative Plan the factors it will take into consideration when deciding which type of assistance to terminate first.

(d) A PHA that will, without following a competitive process, attach PBVs to a public housing project in which it has an ownership interest or over which it has control, must detail the work it plans to do on the public housing property or site that it is improving, developing, or replacing and must state how many units it plans to project-base at the property or site. If the PHA plans to replace public housing by attaching PBVs to existing housing in which the PHA has an ownership interest or over which the PHA has control, then the existing housing must substantially comply with HUD's housing quality standards, and the PHA must describe in its Administrative Plan what it means to "substantially comply with HUD's housing quality standards."

(e) A PHA making PBV units (not HUD-VASH) specifically available to house families that are comprised of or include a veteran under the exception category described in Attachment D of this notice must define "veteran."

Additional administrative policies regarding ~~**HQS**~~ **NSPIRE** will be addressed in another notice.

(3) Additional PBV Guidance Implemented via this Appendix:

(a) A PHA may adopt a policy in its FSS Action Plan that allows families that have left the FSS program without completing the FSS contract to re-enroll in the FSS program. If the PHA would like to adopt such a policy for non-FSS families that have failed to complete their supportive services requirements, then that policy must be included in the PHA's Administrative Plan.

(b) The PHA's Administrative Plan must define the term "project." See paragraph
(7) of this Appendix II for more information.

(c) The Administrative Plan must address the effective dates of the Small Area FMR designation, if applicable, and how this will apply to PBV units in accordance with 24 CFR 888.113(h).

Other PBV Topics

(1) Agreement to Enter into a Housing Assistance Payments (AHAP) Contract.[3] For any projects involving new construction or rehabilitation, an AHAP must be executed prior to the start of any construction or rehabilitation. An AHAP is not required for existing units. The requirements regarding an AHAP are detailed in 24 CFR §983.152. A PHA may not execute an AHAP until a subsidy layering review and an environmental review are completed.

(2) Subsidy Layering Review (SLR). The purpose of an SLR is to avoid excess subsidy. See 24 CFR §983.55 and 79 Fed. Reg. 57955 (Sept. 26, 2014). SLRs are required only for projects involving new construction and rehabilitation. The *Federal Register* notice, *Administrative Guidelines; Subsidy Layering Reviews for Section 8 Project- Based Voucher Housing Assistance Payments Contracts and Mixed-Finance Development,* issued on September 26, 2014, provides that qualified housing credit agencies (HCA) must follow certain administrative guidelines in performing subsidy layering reviews in accordance with the requirements of the Housing and Economic Recovery Act (HERA) of 2008 in those cases where the HCA elects to conduct such reviews for mixed-finance public housing projects and for newly constructed and rehabilitated structures combining other forms of government assistance with project- based voucher assistance.

(3) Environmental Review. In accordance with 24 CFR 983.58, an environmental review is required for all PBV units including existing units. A PHA, an owner, or its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities until an environmental review is completed. Specifically, no AHAP for rehabilitated or new construction units may be executed until the environmental review is complete and no housing assistance payments (HAP) contract may be executed for existing units until the environmental review is completed.

(4) Physical Accessibility. PBV projects must meet program accessibility requirements of 24 CFR 983.102. A PHA must ensure compliance with the accessibility requirements of Section 504 of the Rehabilitation Act (Section 504) and Title II of the Americans with Disabilities Act (ADA), as well as the design and construction requirements of the Fair Housing Act, as applicable. 24 CFR part 8 (Section 504); 24 CFR part 100 (Fair Housing Act); 28 CFR part 35 (Title II of the ADA).

(5) Equal Opportunity and Civil Rights Requirements. A PBV program must comply with all applicable equal opportunity and nondiscrimination requirements as required by 24 CFR 983.8. The PHA must certify that it will carry out its 5-Year and Annual Plan in conformity with all applicable fair housing and civil rights laws and that it will affirmatively further fair housing, which means that it will take meaningful actions to further the goals identified in its Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR §5.150 through §5.180, that it will take

[3] This provision has been changed by HOTMA, but HUD has not yet implemented the change. The information in this section still applies until further notice.

no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its programs. 24 CFR 903.7(o). Under HUD's AFFH regulation, PHAs receiving assistance under Section 8 or Section 9 of the 1937 U.S. Housing Act are required to conduct and submit an AFH. 24 CFR §§5.150 et eq. See also 82 Fed. Reg. 4373 (Jan. 13, 2017).

(6) Special Housing Types. Special housing types that are eligible to be assisted under the PBV program (i.e., single room occupancy units, congregate housing, group homes, and cooperative housing) are subject to the same inspection requirements and exceptions as any other PBV units. Of the special housing types, shared housing, manufactured home space rental, and the homeownership option are ineligible to be assisted under the PBV program. PHAs must consider requests for reasonable accommodations that may be necessary for a qualified individual with disabilities to benefit from the program (in accordance with the Fair Housing Act, Section 504 of the Rehabilitation Act, title II of the Americans with Disabilities Act and implementing regulations at 24 CFR 100.204, 24 CFR 8.33, and 28 CFR 35.130). For example, approval of a live-in aide may be necessary as a reasonable accommodation. Reasonable accommodations are determined on a case-by-case basis.

(7) Definition of Project. The PBV statute defines project as a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. This definition was unchanged by HOTMA. PHAs have discretion to define a project within the parameters of the statutory definition. That is, a PHA may define a project as a single building, or as multiple contiguous buildings, or as multiple buildings on contiguous parcels of land.

PBV HAP contracts are executed for projects based on how the PHA has defined the term in its Administrative Plan. For example, if the PHA defines "project" as a single building, then one HAP contract is executed for each building being project-based.

Appendix III. Reporting

The content of this appendix comes from Section I of Notice PIH 2015–05. It is unchanged (with the exception of VMS reporting) and is simply included here in order to consolidate PBV guidance. Sections II and III of Notice PIH 2015–05 were changed by HOTMA and are therefore revised in the respective applicable attachments of this notice.)

Timely Reporting Requirements of the Family Report (form HUD-50058 and form HUD-50058 MTW) into the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) and Timely Submissions into the Voucher Management System (VMS) for Project-Based Vouchers.

(1) Reporting PBV in IMS/PIC. To ensure that families occupying PBV units are recorded properly in IMS/PIC, PHAs must complete section 11 (Section 8: Project Based Certificates and Vouchers), lines 11b through 11an, as applicable, of the form HUD- 50058. The remaining sections of the form HUD-50058 must be completed the same as for regular Housing Choice Voucher (HCV) participants with the following exceptions:

(a) Action Codes 10, Issuance of a Voucher and 11, Expiration of Voucher. Action codes 10 and 11 do not apply to the PBV program. PHAs do not need to enter action code 10 or 11 on the form HUD-50058 for participants that will occupy PBV units.

(b) Payment Standards. Payment standards do not apply to the PBV program.

(c) Portability. Since portability does not apply to the PBV program, action codes 4 (portability move-in) and 5 (portability move-out) must not be used on line 2a. Also, lines 11d through 11f must be left blank.

MTW PHAs administering PBV must complete section 21, MTW Tenant-Based or Project-Based Assistance, of the form HUD-50058 MTW. The remaining sections of the form HUD-50058 MTW must be completed as normal *except* for 21m, Flat Subsidy Amount, which does not apply to the PBV program.

(2) Correcting the Form HUD-50058 Report when Section 12 was Incorrectly Used. In cases where a PHA has reported a PBV participant in section 12, *Housing Choice Vouchers: Tenant Based Vouchers*, of the form HUD-50058 in error, the PHA must correct the record by entering the family data in section 11 no later than the family's next recertification. Section 11 must be used for families participating in the PBV program since, under the PBV program, families never pay more than TTP (as reflected in section 11 of the 50058).

PHAs that correct an error must determine if the participant has been paying an incorrect rent amount. If so, the PHA must correct the errors starting from the time the incorrect reporting began and reimburse any amounts owed to the family.

(3) Reporting Voucher Issuance. A family participating in the PBV program is eligible for tenant-based voucher assistance under the HCV program after the family's first year in occupancy in the PBV unit, if and when such assistance (or other comparable assistance) becomes available. When the PHA issues a family receiving PBV assistance a HCV, it must enter action code 10 on the form HUD-50058. The PHA

(4) continues to record the participant as VO on line 1c of the form HUD-50058 and does not enter an End of Participation (EOP) entry for the participant. If the PHA cannot enter a portability move out (action code 5) on the form HUD-50058 (line 2a) for a PBV family that wants to port, the PHA should contact its PIC coach. HUD is aware that this is an issue with PBV family reports and will work with PHAs to resolve this issue until the PIC system can be modified to accept this action code for PBV families who want to port.

(5) Timely IMS/PIC Reporting. Through Notice PIH 2011–65, HUD established the requirement of timely submission of form HUD-50058 and form HUD-50058 MTW. The Department requires that form HUD-50058 must be submitted no later than 60 calendar days from the effective date of any action recorded on line 2b.

(6) Timely VMS Submissions. Notice PIH 2012–21 is applicable to all PHAs administering the voucher program and establishes submission requirements for the VMS. The Department uses VMS data for budget formulation, cash management, monitoring, determining renewal funding levels, and funding-related factors under the Section Eight Management Assessment Program (SEMAP). Therefore, it is imperative that PHAs comply with VMS reporting requirements and timelines, ensuring that the information submitted is both timely and accurate. The data submitted in the VMS is subject to verification and review by the PIH Office of Housing Voucher Programs Quality Assurance Division. PHAs are required to submit leasing and cost data in the VMS on a monthly basis; each month's data is submitted during the subsequent month. The VMS is available for regular submissions from the 4th through the 22nd of each month. Adjustments to previous months' reported VMS data may be entered at any time by utilizing the Prior Month Correction (PMC) module. Additional information such as how to use the system, prior month corrections, viewing data and generating reports is found in the VMS User's Manual.[4]
VMS data reporting is time sensitive, and requests to extend submission deadlines will not be considered. However, PHAs that are not able to meet reporting deadlines due to circumstances beyond their control must notify the FMC at Financial_Management_Center@hud.gov. PHAs that do not submit the required data by the reporting deadline may be subject to a withholding or offset of administrative fees.

(a) Reporting the number of PBVs under an AHAP, but not under a HAP. In this field, the PHA reports the number of PBVs under an AHAP only. These units are not reported in any other field.

(b) Reporting the number of PBVs under a HAP and leased. In this field, the PHA reports the total number of PBVs that are under a HAP contract and leased. These units and associated expenses are also reported in the field that best describes the type of voucher being used (Tenant Protection, All Other Vouchers (AOV), etc.)

(c) Reporting the number of PBVs under a HAP contract that are not leased and not receiving vacancy payments. These vouchers are not reported in any other field, but are eligible for administrative fees.

(d) Reporting the number of PBVs under a HAP contract and not leased with Vacancy Payments and Associated Vacancy HAP expenses. In this field, the total number of PBVs that are under a HAP contract and are not leased, but are receiving vacancy payments. These vouchers are not reported in any other field but are eligible for administrative fees.

(e) Reporting HAP Expenses. Include the number of PBVs under a HAP contract and not leased with Vacancy Payments and Associated Vacancy HAP Expenses. The total HAP expense associated with PBVs under a HAP contract and not leased with vacancy payments. These expenses are also reported in the AOV HAP expense field. NOTE: RAD Rehab Assistance payments should not be reported in the field but should be reported in the RAD 1 HAP expense field.

(7) Non-Compliance. Pursuant to 24 CFR §982.152(d), HUD may reduce or offset any administrative fee to the PHA, in the amount determined by HUD, if the PHA fails to perform PHA administrative responsibilities correctly or adequately under the program (for example, failure to submit form HUD-50058 or to complete VMS data reporting on a timely basis or at all).

If the PHA fails to comply with reporting requirements, HUD may reduce the PHA's administrative fees. The reduction will be calculated beginning the first day of the month following the submission closing due date. The monthly reduction will continue until such time as the PHA complies with the reporting requirements or a waiver is granted. The imposition of such reductions will be communicated under separate cover and may represent a permanent reduction in funding for administrative fees for the current calendar year that shall not be reversed. However, this will not impact the baseline administrative fee calculations.

Appendix IV. HCV, Homeownership, and PBV Inspection Requirements

(1) Overview. HCV program inspection requirements are governed by 24 CFR Part 982, Subpart I. Most HCV inspection requirements are applicable to the PBV program and to the Homeownership Option, but there are a number of HCV inspection requirements that do not apply to either of these programs:

- Table 1 lists the HCV inspection requirements that do not apply to the PBV program. The provisions not applicable to the PBV program are found at 24 CFR §983.2(c)(4) and 24 CFR §983.101(a).
- Table 2 lists the HCV inspection requirements that do not apply to the Homeownership Option. The provisions not applicable to the Homeownership Option are found at 24 CFR §982.641(d).

Table 1: HCV Inspection Requirements Not Applicable to the PBV Program

Regulation	HCV Provision	Reason
24 CFR §~~982.401~~(j)	Lead-based paint requirements under the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at part 35, subparts A, B, M, and R.	While 24 CFR §~~982.401~~(j) does not apply to the PBV program, lead-based paint requirements apply to the PBV requirement by virtue of 24 CFR §983.4 and 24 CFR §983.101(c). Part 35, subparts A, B, H, and R (instead of subpart M) of the lead-based paint implementing regulations apply to the PBV program.
24 CFR §982.402(a)(3)	Entering the unit size on the voucher issued to the family.	Not applicable to the PBV program — unlike the HCV program, PBV families are not issued a Housing Choice Voucher.
24 CFR §982.402(c)	Effect of family unit size in the amount of subsidy.	Not applicable to the PBV program — unlike the HCV program, payment standards are not used to determine the amount of rent paid by a family under the PBV program.
24 CFR §982.402(d)	Size of unit occupied by the family.	Not applicable to the PBV program — unlike the HCV program, payment standards are not used to determine the amount of rent paid by a family under the PBV program.
24 CFR §982.403	Terminating the HAP contract when the unit is too small.	PBV requirements for family occupancy of wrong-size units are found at 24 CFR §983.260.

24 CFR §982.405(a)	PHA requirement for initial and periodic unit inspection.	Requirements on timing of inspections for the PBV program are found at 24 CFR §983.103.
24 CFR §982.406	Enforcement of ~~HQS~~ **NSPIRE** — neither the family nor any other party other than the PHA or HUD, has the right to require enforcement of the ~~HQS~~ **NSPIRE** requirements by HUD or the PHA, or to assert any claim against HUD or the PHA for alleged failure to enforce ~~HQS~~ **NSPIRE**.	~~HQS~~ **NSPIRE** enforcement provisions related to the PBV program are found in 24 CFR §983.101(d).

Table 2: HCV Inspection Requirements Not Applicable to the Homeownership Option

Regulation	HCV Provision	Reason
24 CFR §982.403	Terminating the HAP contract when the unit is too small.	Not applicable to the Homeownership Option — unlike the HCV program, there is no HAP contract between the PHA and the landlord under the Homeownership Option.
24 CFR §982.404	Owner and family responsibility for maintenance of the unit and PHA remedies.	Not applicable to the Homeownership Option — unlike the HCV program, the family is not under a lease but is rather the owner of the unit. Family obligations under the Homeownership Option are found at 24 CFR §982.633.
24 CFR §982.405	PHA requirement for initial and periodic unit inspection.	Not applicable to the Homeownership Option — unlike the HCV program, the PHA is not required to conduct periodic inspections after the initial inspection, although the PHA may establish a policy in its Administrative Plan that periodic inspections will be conducted.

PBV program-specific inspection requirements, which supplement the HCV inspection requirements that do apply to the PBV program, are found at 24 CFR Part 983, Subpart C. Likewise, program-specific inspection requirements specific to the Homeownership Option are found at 24 CFR §982.631(a).
See Attachment I of this notice for more information on PBV biennial inspection requirements.

(2) PBV Pre-Selection Inspections. PHAs are required to inspect the proposed site before the selection proposal date. This requirement is applicable to all housing types (existing, new, and rehabilitated housing). Pre-selection inspection considerations include, but are not limited to, adequacy of streets and utilities, and whether the size, contour, and exposure of the property is suitable for the planned development.