



COURT ORDER 2023-0983

Dallas County Health and Human Services/2023 Housing Choice Voucher Program Administrative Plan

On a motion made by Commissioner Dr. Theresa Daniel, 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: September 5, 2023

FUNDING SOURCE: Housing Choice Voucher Program

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve the 2022 DCHHS Housing Choice Voucher Program Administrative Plan, and authorize the County Judge to electronically certify.

Done in open Court September 5, 2023 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 - Sep 05 2023

- ☐ Resolution
- ☐ Solicitation/Contract
- ☐ Executive Session
- ☐ Addendum

**Dallas County Health and Human Services/2023 Housing Choice Voucher
Program Administrative Plan**

Briefing Date: Sep 5 2023
Funding Source: Housing Choice Voucher Program
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 Ad (HCVP) revised to Administrative Plan. has DCHHS the HCVP Administrative Plan incorporate revisions and additions as detailed in Attachment-A.

OPERATIONAL IMPACT:

The revised Administrative Plan is inclusive of Project Based Voucher (PBV) program that expands the affordability of rental housing in DCHA's jurisdiction for qualified households; make project-based rental subsidies accessible so qualified families can afford safe, decent, and sanitary housing; maintain full utilization of HUD allocated vouchers; and prevent the concentration of poverty.

FINANCIAL IMPACT:

There is no financial impact to 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 to 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 service to promote a thriving community while further improving people's lives.

RECOMMENDATION:

It is recommended that Dallas County Commissioners Court does hereby approve the 2022 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 2022 DCHHS Housing Choice Voucher Program Administrative Plan, and authorize the County Judge to electronically certify.

ATTACHMENTS:

[Admin FY2023 Revisions updated 8-2023](#)

[FY2023 Admin Plan updated 10-2022-2023](#)

Dallas County
Health and Human Services – Housing Division
Housing Choice Voucher Program
Administrative Plan Revisions 2023

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

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

D. How Applicants Are Selected [982.202 (a) (2)] (Page 4 - 5)

As a Waiting List Admission

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. This preference shall be limited to applicants who have been certified as meeting the criteria for this preference by the CoC Lead Agency.

Persons transitioning out of (or 'moving up') from a Continuum of Care permanent housing program (such Permanent Supportive Housing or Rapid Rehousing), will also be included as a priority group as part of this preference. These are persons that were previously homeless prior to entry into the housing program but who no longer require that level of supportive services. This strategy frees up existing program units for those who need wrap around support.

- **Updated Exhibit B. Income Limits (Page 101)**
- **Updated Exhibit J. Utility Allowances (Pages 121 - 122)**
- **Updated Exhibit K. Fair Market Rent (Page 123 - 126)**

***DALLAS COUNTY
HEALTH AND HUMAN SERVICES***

***HOUSING CHOICE VOUCHER
PROGRAM***

ADMINISTRATIVE PLAN



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

2023

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Administrative Plan

Dallas County Housing Choice Voucher Program

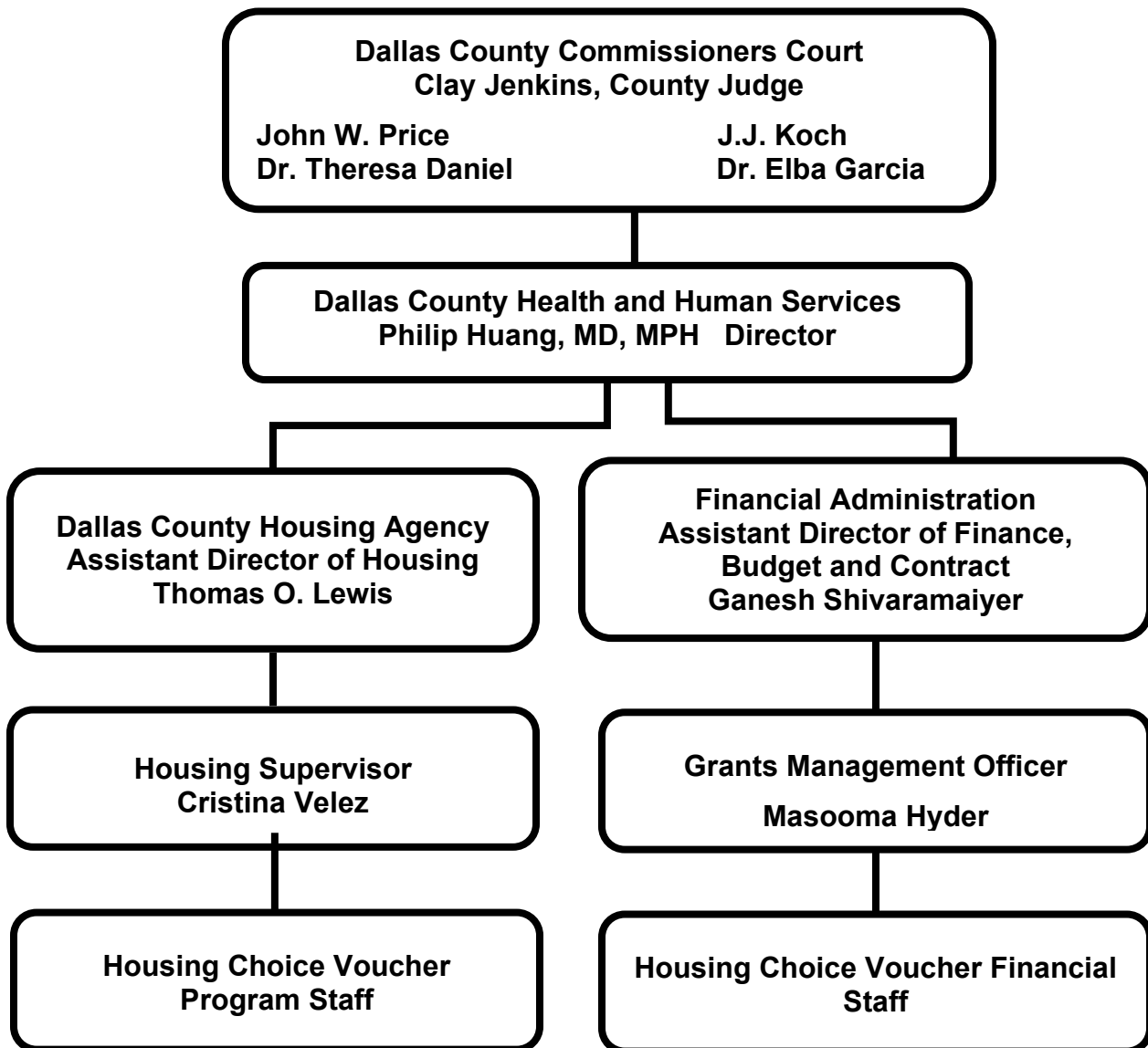
This Administrative Plan provides the guidelines for the operation of Dallas County's Housing Choice Voucher Program. Administration of this program is in compliance with the Department of Housing and Urban Development (HUD) regulations as specified in 24 CFR, HUD directives, Dallas County policy, and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

Goal

The goal is to provide decent, safe and sanitary housing 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.

Organization 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 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.

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.

C. Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA) [Public Law 109-162]

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. In addition to the certification form, a client must provide the HA: (1) a police record or court record or a record of an administrative agency or; (2) documentation signed and attested to by an employee, agent, or volunteer of a victim service provider, an attorney or a medical/mental health professional from whom the victim has sought assistance in addressing domestic violence in which the professional attests under penalty of perjury to the belief that the incident or incidents in question are bona fide incidents and the victim has signed or attested to the document. 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.

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)

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.

This preference shall be limited to applicants who have been certified as meeting the criteria for this preference by the CoC Lead Agency.

Persons transitioning out of (or 'moving up') from a Continuum of Care permanent housing program (such Permanent Supportive Housing or Rapid Rehousing), will also be included as a priority group as part of this preference. These are persons that were previously homeless prior to entry into the housing program but who no longer require that level of supportive services. This strategy frees up existing program units for those who need wrap around support.

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 a 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. 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 HA, and the information returned to HA by mail.
 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]

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)]

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 years; **[24 CFR 982.552 (4) (c) (ii)]**
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 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].

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

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 8 of 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 days.
2. If at the end of 60 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 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. A maximum of 2 extensions will be given unless the request for further extension is verified to be related to a disability which has prevented the applicant from using the voucher sooner.
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-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;
- (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;
 - (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, 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) 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
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. Housing Quality Standards (HQS) [24 CFR 982.401]

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

- (1) This section states the housing quality standards (HQS) 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.
- (3) All program housing must meet the HQS performance requirements both at commencement of assisted occupancy, and throughout the assisted tenancy.

1. The HA or its contractor will inspect each unit for compliance with HUD's Housing Quality Standards (HQS), as soon as possible, but in no instance later than fifteen (15) business days after the unit ready date.
2. All units proposed for inclusion in the Housing program must be in compliance with HQS prior to the beginning of the Housing Assistance Payments Contract (HAP).
3. If the proposed unit does not meet HQS, the HA 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 HQS checklist that will specify the repairs that are needed to meet housing quality standards.
4. 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 request a re-inspection, the HA 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.
- (2) If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations. PHA remedies for such breach of the HQS 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, 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 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 breach caused by the family.)

Family Obligation [24 CFR 982.404(b)].

- (1) The family is responsible for a breach of the HQS that is caused by any of the following:
 - (i) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;
 - (ii) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or
 - (iii) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).
- (2) If an HQS 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, 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 [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 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.

All life-threatening HQS deficiencies will be corrected within twenty-four(24) hours of inspection and all other cited HQS 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 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 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 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 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 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, 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.
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 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

Family income and composition: Regular and Interim Examinations: [24 CFR 982.516]

A. Re-certification of Family Eligibility

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)*].

1. 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.
2. An interim re-examination shall occur only if there is a change of \$4,800.00 annually or more of income to the participant, or if the participant were unemployed or changed employment and those who report zero income during the initial, annual or three (3) year certification. Tenants are required to report every three (3) months if there is a change of income that meets the above qualifications.
3. 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.

4. 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.
5. 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.
6. 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.
7. 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.

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.

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

- (1) 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.) (See 982.305(b)(2) concerning timing of initial inspection by the HA)

- (2) The HA must conduct supervisory quality control HQS inspections.
- (3) In scheduling inspections, the HA must consider complaints and any other information brought to the attention of the HA.
- (4) The HA must notify the owner of defects shown by the inspection.
- (5) 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) 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.
- 3. HA will bar owners who have three units abated or terminated for non-compliance with HQS from future participation in the Housing program.
- 4. If the unit fails HQS 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.

C. 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.

D. 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.

E. 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 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. 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 breach caused by family. The family is responsible for an HQS 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 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.)

B. 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 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.
 - 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.

C. 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, decent, and sanitary housing; 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, 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

A. 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.

B. 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.

C. Termination of HAP Contract

1. 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.

2. 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.

3. 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]**.

4. 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.

5. 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.

D. 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 of 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 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) 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. **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.

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.

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) 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.
3. HA will bar owners who have three units abated or terminated for non-compliance with HQS from future participation in the Housing program.
4. If the unit fails HQS 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. 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 March 13, 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
FY2023

		8001	8071/8072	
		HCVP	Financial	Total
LINE ITEM	ACCT Code	Programmatic Allocation	Administration Allocation	Budget Appropriation
ADMINISTRATIVE				
Salaries - Assistant	1020	\$2,032,777	\$593,140	\$2,625,917
Salaries - Overtime	1050	\$0	\$0	\$0
Salaries - Extra Help	1060	\$0	\$0	\$0
FICA	1111	\$126,029	\$36,778	\$162,807
Medicare	1112	\$29,420	\$8,656	\$38,076
Sick Leave Payoff	1120	\$0	\$0	\$0
Insurance -Employer	1140	\$420,191	\$122,621	\$542,812
Fringe Benefits Retirement-Emp	1150	\$283,158	\$82,632	\$365,790
Workers Compensation- County	1190	\$10,164	\$2,966	\$13,130
TOTAL ADMINISTRATIVE		\$2,901,739	\$846,793	\$3,748,532
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	\$20,000		\$20,000
Computer Hardware less than \$5	2093	\$2,040	\$7,000	\$9,040
Computer Software	2095	\$34,000	\$1,000	\$35,000
Notary /Bonds Fees	2155	\$100		\$100
Office Supplies	2160	\$74,000	\$21,000	\$95,000
Postage	2170	\$43,000	\$12,000	\$55,000
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	\$80,000		\$80,000
Other Miscellaneous	5499	\$356,938	\$208,062	\$565,000
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		\$894,590	\$261,062	\$1,155,652

HOUSING ASSISTANCE PAYMENTS (HAP)

Incentives- Grants	2250	\$150,000		\$150,000
Rental Assistance - Long Term	5152	\$45,705,342		\$45,705,342
Rental Assistance - Portability	5155	\$100		\$100
Utilities Assistance	5180	\$100		\$100
Utilities Assistance - Emergen	5182	\$550,000		\$550,000
TOTAL HAP		\$46,405,542	\$0	\$46,405,542

CAPITAL

Building Improvements	8130	\$100		\$100
General Equipment	8418	\$100		\$100
TOTAL CAPITAL		\$200	\$0	\$200
GRAND TOTAL		\$50,202,071	\$1,107,855	\$51,309,926

Summary			
Total Admin			\$4,904,384
Total HAP			\$46,405,542
Total 8001 Set Up			\$51,309,926

Total Award **\$51,309,926**

*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 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) 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 "first-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) inspection and an independent professional home inspection are required prior to purchase of the home. The HQS 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 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 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.

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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 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 inspection and private market inspection.

HQS inspection is completed by Section 8 inspector. Copy sent to DCHLCC for review/approval.

If HQS 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.

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

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.

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.

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.

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 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

Gross rent - The sum of the rent to owner plus any utility allowance.

HA – Housing Agency

HAP contract - Housing assistance payments contract.

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.

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 HUD minimum quality standards for housing assisted under the tenant-based programs.

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 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 or 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).

Non-citizen – A person who is neither a citizen nor a national of the United States

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 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 provided by the owner includes payment for any services, maintenance and utilities to be provided by the owner in accordance with the lease.

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 rent – The amount of rent to be paid by the tenant

Tuition – See PIH 2015-21 (Exhibit V. Pg. 155)

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.

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) Inspections Section

Thirteen (13) HQS-HUD Inspection Regulation & Type of Inspections

Checklist for HQS

Abatement

Rent Reasonableness

Eligible and Ineligible Types of Housing

Inspection Form

Housing Section

Contractual Relationships in the Housing Choice Voucher Program (HQS)

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 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

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 2023**

Number of Persons in Family Maximum Annual Income Limit

1	30% of Median	- \$ 21,700
	Very Low Income	- \$ 36,100
	Lower Income	- \$ 57,750
2	30% of Median	- \$ 24,800
	Very Low Income	- \$ 41,250
	Lower Income	- \$ 66,000
3	30% of Median	- \$ 27,900
	Very Low Income	- \$ 46,400
	Lower Income	- \$ 74,250
4	30% of Median	- \$ 30,950
	Very Low Income	- \$ 51,550
	Lower Income	- \$ 82,500
5	30% of Median	- \$ 35,140
	Very Low Income	- \$ 55,700
	Lower Income	- \$ 89,100
6	30% of Median	- \$ 40,280
	Very Low Income	- \$ 59,800
	Lower Income	- \$ 95,700
7	30% of Median	- \$ 45,420
	Very Low Income	- \$ 63,950
	Lower Income	- \$ 102,300
8	30% of Median	- \$ 50,560
	Very Low Income	- \$ 68,050
	Lower Income	- \$ 108,900

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 (RHIP)
- 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 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 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 standards referenced above.

If the unit fails HQS 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 CFR 5.403]** 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 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) 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 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, (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 executed 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 not 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) Initial and subsequent use of vouchers. 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)**

Locality Dallas County		Unit Type Apartments/Town Homes/Condos			Date (mm/dd/yyyy) OCTOBER 1, 2022		
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	17.00	20.00	26.00	29.00	35.00	
	d. Coal/Other						
Cooking	a. Natural Gas	2.00	6.00	9.00	9.00	12.00	
	b. Bottle Gas						
	c. Oil/Electric	3.00	3.00	6.00	6.00	7.00	
	d. Coal/Other						
Other Electric		23.00	26.00	32.00	37.00	43.00	
Air Conditioning		16.00	19.00	24.00	27.00	35.00	
Water Heater	a. Natural Gas	15.00	21.00	26.00	32.00	41.00	
	b. Bottle Gas						
	c. Oil/Electric	12.00	17.00	20.00	26.00	32.00	
	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		24.00	24.00	24.00	24.00	24.00	
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,					Utility or Service		per. month cost
					Heating		
Name of Family					Cooking		
					Other Electric		
					Air Conditioning		
Address of Unit --, TEXAS					Water Heater		
					Water		
					Sewer		
					Trash Collection		
					Range/Microwave		
Number of Bedrooms -					Refrigerator		
					Other -- specify		
					Total		

**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)**

Locality Dallas County		Unit Type Single Family/Duplex/Manufacture Homes				Date (mm/dd/yyyy) OCTOBER 1, 2022	
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		29.00	35.00	42.00	43.00	50.00
	d. Coal/Other						
Cooking	a. Natural Gas		6.00	9.00	9.00	12.00	12.00
	b. Bottle Gas						
	c. Oil/Electric		3.00	6.00	6.00	7.00	9.00
	d. Coal/Other						
Other Electric			29.00	35.00	43.00	50.00	60.00
Air Conditioning			23.00	26.00	29.00	35.00	36.00
Water Heater	a. Natural Gas		21.00	26.00	26.00	36.00	45.00
	b. Bottle Gas						
	c. Oil/Electric		20.00	26.00	32.00	37.00	45.00
	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			24.00	24.00	24.00	24.00	24.00
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,					Utility or Service		per. month cost
					Heating		
Name of Family					Cooking		
					Other Electric		
					Air Conditioning		
Address of Unit —, TEXAS					Water Heater		
					Water		
					Sewer		
					Trash Collection		
					Range/Microwave		
Number of Bedrooms —					Refrigerator		
					Other -- specify		
					Total		

Exhibit K. Fair Market Rent

Small Area Demonstration Program

Schedule B – FY2022 - 2023 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 10/1/22)

<i>ZIP Code</i>	<i>Efficiency</i>	<i>One-Bedroom</i>	<i>Two-Bedroom</i>	<i>Three-Bedroom</i>	<i>Four-Bedroom</i>
75001	\$1,740	\$1,830	\$2,160	\$2,720	\$3,550
75006	\$1,300	\$1,370	\$1,620	\$2,040	\$2,660
75007	\$1,340	\$1,410	\$1,660	\$2,090	\$2,730
75011	\$1,240	\$1,310	\$1,540	\$1,950	\$2,540
75014	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75015	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75016	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75017	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75019	\$1,540	\$1,630	\$1,920	\$2,420	\$3,160
75030	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75038	\$1,340	\$1,410	\$1,660	\$2,090	\$2,730
75039	\$1,860	\$1,960	\$2,310	\$2,910	\$3,800
75040	\$1,180	\$1,250	\$1,470	\$1,850	\$2,420
75041	\$1,120	\$1,180	\$1,390	\$1,750	\$2,280
75042	\$1,020	\$1,080	\$1,270	\$1,600	\$2,090
75043	\$1,220	\$1,290	\$1,520	\$1,920	\$2,500
75044	\$1,380	\$1,450	\$1,710	\$2,150	\$2,810
75045	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75046	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75047	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75048	\$1,570	\$1,650	\$1,950	\$2,460	\$3,200
75049	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75050	\$1,190	\$1,270	\$1,500	\$1,910	\$2,460
75051	\$1,000	\$1,060	\$1,250	\$1,580	\$2,060
75052	\$1,300	\$1,400	\$1,650	\$2,120	\$2,720
75053	\$1,170	\$1,250	\$1,480	\$1,900	\$2,430
75054	\$1,650	\$1,850	\$2,180	\$2,890	\$3,570
75060	\$1,050	\$1,110	\$1,310	\$1,650	\$2,150
75061	\$1,140	\$1,200	\$1,420	\$1,790	\$2,330
75062	\$1,170	\$1,240	\$1,460	\$1,840	\$2,400
75063	\$1,600	\$1,690	\$1,990	\$2,510	\$3,270

<i>ZIP Code</i>	<i>Efficiency</i>	<i>One-Bedroom</i>	<i>Two-Bedroom</i>	<i>Three-Bedroom</i>	<i>Four-Bedroom</i>
75067	\$1,380	\$1,450	\$1,710	\$2,150	\$2,810
75080	\$1,300	\$1,370	\$1,620	\$2,040	\$2,660
75081	\$1,470	\$1,550	\$1,830	\$2,310	\$3,010
75082	\$1,730	\$1,820	\$2,150	\$2,710	\$3,530
75083	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75085	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75088	\$1,720	\$1,810	\$2,140	\$2,700	\$3,520
75089	\$1,770	\$1,860	\$2,200	\$2,770	\$3,620
75098	\$1,630	\$1,720	\$2,030	\$2,560	\$3,340
75099	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75104	\$1,500	\$1,580	\$1,870	\$2,360	\$3,070
75106	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75115	\$1,300	\$1,360	\$1,610	\$2,030	\$2,650
75116	\$1,160	\$1,220	\$1,440	\$1,810	\$2,370
75123	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75125	\$1,150	\$1,210	\$1,430	\$1,800	\$2,350
75134	\$1,170	\$1,240	\$1,460	\$1,840	\$2,400
75137	\$1,400	\$1,470	\$1,740	\$2,190	\$2,860
75138	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75141	\$1,140	\$1,200	\$1,420	\$1,790	\$2,330
75146	\$1,250	\$1,320	\$1,560	\$1,970	\$2,560
75149	\$1,140	\$1,200	\$1,420	\$1,790	\$2,330
75150	\$1,250	\$1,320	\$1,560	\$1,970	\$2,560
75154	\$1,330	\$1,400	\$1,650	\$2,080	\$2,710
75159	\$1,130	\$1,190	\$1,410	\$1,780	\$2,320
75172	\$970	\$1,030	\$1,210	\$1,520	\$1,990
75180	\$1,120	\$1,180	\$1,390	\$1,750	\$2,280
75181	\$1,870	\$1,970	\$2,330	\$2,940	\$3,830
75182	\$1,400	\$1,480	\$1,750	\$2,210	\$2,870
75185	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75187	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75201	\$1,890	\$1,990	\$2,350	\$2,960	\$3,860
75202	\$1,630	\$1,720	\$2,030	\$2,560	\$3,340
75203	\$950	\$1,000	\$1,180	\$1,490	\$1,940
75204	\$1,890	\$1,990	\$2,350	\$2,960	\$3,860
75205	\$1,770	\$1,860	\$2,200	\$2,770	\$3,620
75206	\$1,550	\$1,640	\$1,930	\$2,430	\$3,170
75207	\$1,750	\$1,840	\$2,170	\$2,730	\$3,570
75208	\$1,250	\$1,310	\$1,550	\$1,950	\$2,550
75209	\$1,510	\$1,590	\$1,880	\$2,370	\$3,090

<i>ZIP Code</i>	<i>Efficiency</i>	<i>One-Bedroom</i>	<i>Two-Bedroom</i>	<i>Three-Bedroom</i>	<i>Four-Bedroom</i>
75210	\$840	\$880	\$1,040	\$1,310	\$1,710
75211	\$1,000	\$1,050	\$1,240	\$1,560	\$2,040
75212	\$970	\$1,030	\$1,210	\$1,520	\$1,990
75214	\$1,410	\$1,480	\$1,750	\$2,210	\$2,880
75215	\$890	\$940	\$1,110	\$1,400	\$1,820
75216	\$880	\$920	\$1,090	\$1,370	\$1,790
75217	\$930	\$980	\$1,160	\$1,460	\$1,910
75218	\$1,330	\$1,400	\$1,650	\$2,080	\$2,710
75219	\$1,750	\$1,840	\$2,170	\$2,730	\$3,570
75220	\$1,110	\$1,170	\$1,380	\$1,740	\$2,270
75221	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75222	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75223	\$1,050	\$1,110	\$1,310	\$1,650	\$2,150
75224	\$930	\$980	\$1,160	\$1,460	\$1,910
75225	\$1,890	\$1,990	\$2,350	\$2,960	\$3,860
75226	\$1,350	\$1,420	\$1,680	\$2,120	\$2,760
75227	\$1,020	\$1,080	\$1,270	\$1,600	\$2,090
75228	\$1,010	\$1,070	\$1,260	\$1,590	\$2,070
75229	\$1,170	\$1,230	\$1,450	\$1,830	\$2,380
75230	\$1,190	\$1,250	\$1,480	\$1,860	\$2,430
75231	\$1,130	\$1,190	\$1,410	\$1,780	\$2,320
75232	\$1,070	\$1,130	\$1,330	\$1,680	\$2,190
75233	\$1,100	\$1,160	\$1,370	\$1,730	\$2,250
75234	\$1,270	\$1,340	\$1,580	\$1,990	\$2,600
75235	\$1,370	\$1,440	\$1,700	\$2,140	\$2,790
75236	\$1,060	\$1,120	\$1,320	\$1,660	\$2,170
75237	\$1,020	\$1,080	\$1,270	\$1,600	\$2,090
75238	\$1,140	\$1,200	\$1,420	\$1,790	\$2,330
75240	\$1,170	\$1,240	\$1,460	\$1,840	\$2,400
75241	\$1,080	\$1,140	\$1,340	\$1,690	\$2,200
75242	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75243	\$1,180	\$1,250	\$1,470	\$1,850	\$2,420
75244	\$1,560	\$1,640	\$1,940	\$2,440	\$3,190
75246	\$930	\$980	\$1,160	\$1,460	\$1,910
75247	\$960	\$1,010	\$1,190	\$1,500	\$1,960
75248	\$1,460	\$1,530	\$1,810	\$2,280	\$2,970
75249	\$1,660	\$1,750	\$2,060	\$2,600	\$3,390
75250	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75251	\$1,460	\$1,530	\$1,810	\$2,280	\$2,970
75252	\$1,420	\$1,490	\$1,760	\$2,220	\$2,890

<i>ZIP Code</i>	<i>Efficiency</i>	<i>One-Bedroom</i>	<i>Two-Bedroom</i>	<i>Three-Bedroom</i>	<i>Four-Bedroom</i>
75253	\$1,160	\$1,220	\$1,440	\$1,810	\$2,370
75254	\$1,390	\$1,470	\$1,730	\$2,180	\$2,840
75261	\$1,100	\$1,240	\$1,460	\$1,930	\$2,390
75270	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75287	\$1,420	\$1,490	\$1,760	\$2,220	\$2,890
75313	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75315	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75336	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75339	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75342	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75354	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75355	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75356	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75357	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75360	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75367	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75370	\$1,480	\$1,560	\$1,840	\$2,320	\$3,020
75371	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75372	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75374	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75376	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75378	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75379	\$1,480	\$1,560	\$1,840	\$2,320	\$3,020
75380	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75381	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75382	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75390	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
75398	\$1,200	\$1,260	\$1,490	\$1,880	\$2,450
76051	\$1,470	\$1,650	\$1,950	\$2,580	\$3,190
76065	\$1,290	\$1,360	\$1,600	\$2,020	\$2,630
76065	\$1,110	\$1,190	\$1,410	\$1,800	\$2,360

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. **Effective Date: 10/1/22**

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,

A handwritten signature in cursive script that reads "Thomas Lewis".

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: _____

Exhibit M. Closure of Overpayment Form



DALLAS COUNTY HEALTH AND HUMAN SERVICES FINANCIAL ADMINISTRATION

PHILIP HUANG, MD, 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: _____

Overpayment Period: _____

_____ Thru _____

Client Information:

Name: _____

Address: _____

Voucher #: _____

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) 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 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 CFR 982.505(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 or 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, subch. 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 decent, safe, and sanitary housing. 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). 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 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 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 Inspections	PHAs may pre-inspect units that Veterans may be interested in leasing. If a family selects a unit that passed a HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be leased.
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 Work to	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 Code PIC	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. 1437f(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 special 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 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 inspections. The PHA supervisor's reinspected sample is to be drawn from recently completed HQS 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 enforcement.

(1) This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening HQS deficiencies are corrected within 24 hours from the inspection and all other cited HQS deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension. In addition, if HQS 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) inspections.

(1) This indicator shows whether newly leased units pass HQS inspection on or before the beginning date of the assisted lease and HAP contract. (24 CFR 982.305).

(m) Annual HQS 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:
 - o 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
 - o 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)(1)) 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.
 - o 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)(1).

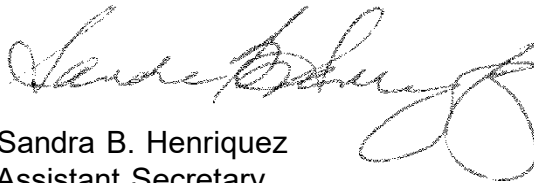
- VAWA 2013 requires HUD to adopt a model emergency transfer plan for use by PHAs, and requires HUD to establish policies and procedures under which victims of abuse requesting an emergency transfer may receive, subject to the availability of tenant protection vouchers, assistance through the tenant-based 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:
 - o HOME Investment Partnerships Program
 - o Section 202 Supportive Housing for the Elderly o
 - o Section 236 Rental Program
 - o Section 811 Supportive Housing for People with Disabilities
 - o Section 221(d)(3) Below Market Interest Rate (BMIR) Program o
 - o HOPWA Housing Program
 - o HUD's McKinney-Vento homeless programs
 - o Low-Income Housing Tax Credit properties (Department of Treasury)
 - o 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 Through 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. Dep’t 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. Dep’t 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. Dep't 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 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 Housing's 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 <i>written/signed certification</i> 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, <u>via independent third -party verification</u> , 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 <i>one year</i> prior to applying to public housing, voucher, or	Obtain evidence of separate households by reviewing/verifying the address information that predates the student’s application by a minimum of <i>one year</i>
The college student <i>must not be claimed</i> 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 PHA 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.

- A. 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).
 - B. 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

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)

Public Housing Division Directors

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.

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 be 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 be 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



64932

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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 or older;
- c. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s State of legal residence;
- d. The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
- e. The individual is a graduate or professional student;
- f. The individual is a married individual;

g. The individual has legal dependents other than a spouse;

h. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 *et seq.*), or as unaccompanied, at risk of homelessness, and self-supporting, by—

(i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(I)(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/dpccletters/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. Applicable 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 at 24 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 in 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 hereby 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

DALLAS COUNTY

By: 
Carl W. Falconer
Chief Executive Officer

By: _____
Clay Lewis Jenkins
County Judge

Date: 1 JUN 2020

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).

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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(a)
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 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 years² 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 6.

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 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 seq. 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 — neither the family nor any other party other than the PHA or HUD, has the right to require enforcement of the HQS requirements by HUD or the PHA, or to assert any claim against HUD or the PHA for alleged failure to enforce HQS.	HQS 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.