Chicago Housing Authority

Administrative Plan for the Housing Choice Voucher Program

Effective Date: December 1, 2012
<table>
<thead>
<tr>
<th>Board of Commissioners Approval Date</th>
<th>Implementation Date</th>
<th>Chapters Updated</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 21, 2004</td>
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<td>September 1, 2011</td>
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<td>July 19, 2011</td>
<td>September 1, 2011</td>
<td>CHAPTER 5 - 5-II.B.</td>
</tr>
<tr>
<td></td>
<td>(Clarified May 7, 2012)</td>
<td>Determining Family Unit (Voucher) Size</td>
</tr>
<tr>
<td>Tuesday November 20, 2012</td>
<td>December 1, 2012</td>
<td>Chapters 4, 8,10 and 16</td>
</tr>
</tbody>
</table>
1. Chapter 1—Overview of the Program and Plan ......................................................... 1-1
   Introduction ................................................................................................................. 1-1

   Part I: The PHA ......................................................................................................... 1-2
   1-I.A. Overview ......................................................................................................... 1-2
   1-I.B. Organization and Structure of the PHA ....................................................... 1-2
   1-I.C. PHA Mission ................................................................................................. 1-2
   1-I.D. The PHA’S Programs .................................................................................. 1-3
   1-I.E. The PHA’s Commitment to Ethics and Service ........................................ 1-3

   Part II: The Housing Choice Voucher (HCV) Program ............................................ 1-4
   1-II.A. Overview and History of the Program ......................................................... 1-4
   1-II.B. HCV Program Basics .................................................................................. 1-5
   1-II.C. The HCV Partnerships .............................................................................. 1-5
   The HCV Relationships ............................................................................................ 1-6
   What Does HCV Do? ............................................................................................. 1-7
   What Does the PHA Do? ........................................................................................ 1-7
   What Does the Owner Do? ..................................................................................... 1-7
   What Does the Family Do? ..................................................................................... 1-8
   1-II.D. Applicable Regulations ................................................................................ 1-9

   Part III: The HCV Program Administrative Plan ...................................................... 1-9
   1-III.A. Overview and Purpose of the Plan ............................................................. 1-9
   1-III.B. Contents of the Plan ................................................................................. 1-9
   Mandatory vs. Discretionary Policy ....................................................................... 1-11
   1-III.C. Organization of the Plan ....................................................................... 1-11
   1-III.D. Updating and Revising the Plan .............................................................. 1-11

2. Chapter 2—Fair Housing and Equal Opportunity ..................................................... 2-1
   Introduction ................................................................................................................. 2-1

   Part I: Nondiscrimination ........................................................................................ 2-2
   2-I.A. Overview ........................................................................................................ 2-2
   2-I.B. Nondiscrimination ....................................................................................... 2-2
   Providing Information to Families and Owners ...................................................... 2-3
Discrimination Complaints.................................................................................................................. 2-4

Part II: Policies Related to Persons with Disabilities......................................................................... 2-4

2-II.A. Overview.................................................................................................................................. 2-4

2-II.B. Definition of Reasonable Accommodation............................................................................. 2-5

Types of Reasonable Accommodations............................................................................................... 2-5

2-II.C. Request for an Accommodation ............................................................................................... 2-6

2-II.D. Verification of Disability .......................................................................................................... 2-6

2-II.E. Approval/Denial of a Requested Accommodation................................................................. 2-8

2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments............................... 2-9

2-II.G. Physical Accessibility ............................................................................................................. 2-9

2-II.H. Denial or Termination of Assistance ...................................................................................... 2-10

Part III: Improving Access to Services for Persons with Limited English Proficiency .............. 2-10

2-III.A. Overview.................................................................................................................................. 2-10

2-III.B. Oral Interpretation.................................................................................................................. 2-11

2-III.C. Written Translation................................................................................................................ 2-11

2-III.D. Implementation Plan.............................................................................................................. 2-12

Exhibit 2-1: Definition of a Person with a Disability under Federal Civil Rights Laws............... 2-13

Affirmatively Furthering Fair Housing Statement............................................................................. 2-14

Additional Affirmative Measures to Further Fair Housing for Family Unification Program Applicants and Participants................................................................................................................................. 2-16

3.  Chapter 3—Eligibility....................................................................................................................... 3-1

Introduction.......................................................................................................................................... 3-1

Part I: Definitions of Family and Household Members................................................................. 3-2

3-I.A. Overview.................................................................................................................................. 3-2

3-I.B. Family and Household............................................................................................................ 3-2

3-I.C. Family Break-Up and Remaining Members of Tenant Family............................................... 3-3

3-I.D. Head of Household................................................................................................................... 3-4

3-I.E. Spouse, Co-Head, and Other Adult ....................................................................................... 3-4

3-I.F. Dependent .................................................................................................................................. 3-4

3-I.G. Full-Time Student.................................................................................................................... 3-5

3-I.H. Elderly and Near-Elderly Persons, and Elderly Family........................................................ 3-5

3-I.I. Persons with Disabilities and Disabled Family......................................................................... 3-5
3-I.J. Guests ........................................................................................................... 3-6
3-I.K. Foster Children and Foster Adults .............................................................. 3-6
3-I.L. Absent Family Members ............................................................................. 3-7
3-I.M. Live-In Aide .................................................................................................. 3-8

Part II: Basic Eligibility Criteria ......................................................................... 3-9
3-II.A. Income Eligibility and Targeting ................................................................ 3-9
3-II.B. Citizenship or Eligible Immigration Status .............................................. 3-11
3-II.C. Social Security Numbers ........................................................................... 3-13
3-II.D. Family Consent to Release of Information ............................................. 3-15
3-II.E. Students Enrolled in Institutions of Higher Education ........................... 3-15

Part III: Denial of Assistance ............................................................................... 3-18
3-III.A. Overview .................................................................................................... 3-18
3-III.B. Mandatory Denial of Assistance .............................................................. 3-19
3-III.C. Other Permitted Reasons for Denial of Assistance .................................. 3-20
3-III.D. Screening .................................................................................................... 3-22
3-III.E. Criteria for Deciding to Deny Assistance ............................................. 3-23
3-III.F. Notice of Eligibility or Denial ................................................................. 3-25
3-III.G. Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking ................................................................. 3-26

Exhibit 3-1: Detailed Definitions Related to Disabilities ...................................... 3-29
Exhibit 3-2: Definition of Institution of Higher Education .................................... 3-31

4. Chapter 4—Application, Waiting List and Tenant Selection .......................... 4-1
   Introduction ........................................................................................................... 4-1

Part I: The Application Process .......................................................................... 4-2
   4-I.A. Overview ..................................................................................................... 4-2
   4-I.B. Applying for Assistance ............................................................................ 4-2
   4-I.C. Accessibility of the Application Process ................................................. 4-3
   4-I.D. Placement on the Waiting List ................................................................. 4-3

Part II: Managing the Waiting List ..................................................................... 4-3
   4-II.A. Overview .................................................................................................. 4-3
   4-II.B. Organization of the Waiting List ............................................................ 4-4
   4-II.C. Opening and Closing the Waiting List .................................................. 4-5
4-II.D. Family Outreach ................................................................. 4-6
4-II.E. Reporting Changes in Family Circumstances ........................................... 4-6
4-II.F. Updating the Waiting List ........................................................................... 4-7

Part III: Selection for HCV Assistance ......................................................... 4-8
4-III.A. Overview .......................................................................................... 4-8
4-III.B. Selection and HCV Funding Sources ....................................................... 4-8
4-III.C. Selection Method ................................................................................. 4-11
4-III.D. Notification of Selection ......................................................................... 4-14
4-III.E. The Application Interview ...................................................................... 4-14
4-III.F. Completing the Application Process .......................................................... 4-15

5. Chapter 5—Briefings and Voucher Issuance ................................................. 5-1

Introduction ........................................................................................................ 5-1

Part I: Briefings and Family Obligations .......................................................... 5-1
5-I.A. Overview .................................................................................................. 5-1
5-I.B. Briefing ..................................................................................................... 5-1
5-I.C. Family Obligations ..................................................................................... 5-4
5-II.A. Overview .................................................................................................. 5-7
5-II.B. Determining Family Unit (Voucher) Size .................................................... 5-7
5-II.C. Exceptions to Subsidy Standards ............................................................... 5-8
5-II.D. Voucher Issuance .................................................................................... 5-8
5-II.E. Voucher Term, Extensions, and Suspensions ............................................ 5-9
Suspending of Voucher Term .............................................................................. 5-11

6. Chapter 6—Income and Subsidy Determinations ........................................ 6-1

Introduction ........................................................................................................ 6-1

Part I: Annual Income ....................................................................................... 6-1
6-I.A. Overview .................................................................................................. 6-1
6-I.B. Household Composition and Income ......................................................... 6-2
6-I.C. Anticipating Annual Income ..................................................................... 6-4
6-I.D. Earned Income ........................................................................................ 6-6
6-I.E. Earned Income Disallowance for Persons with Disabilities ....................... 6-9
6-I.F. Business Income ....................................................................................... 6-10
6-I.G. Assets ...................................................................................................... 6-11
Part I: General Verification Requirements

Introduction

Addendum to Chapter 6 Determination of Assets at Initial Eligibility

Exhibit 6

Part II: Adjusted Income

6-II.A. Introduction .......................................................................................................................... 6-18
6-II.B. Dependent Deduction .......................................................................................................... 6-19
6-II.C. Elderly or Disabled Family Deduction ................................................................................ 6-19
6-II.D. Medical Expenses Deduction ............................................................................................. 6-19
6-II.E. Disability Assistance Expenses Deduction ......................................................................... 6-21
6-II.F. Child Care Expense Deduction ............................................................................................ 6-23

Part III: Calculating Family Share and PHA Subsidy ................................................................. 6-26

6-III.A. Overview of Rent and Subsidy Calculations ................................................................. 6-26
6-III.B. Financial Hardships Affecting Minimum Rent .......................................................... 6-27
6-III.C. Applying Payment Standards ......................................................................................... 6-30
6-III.D. Applying Utility Allowances ......................................................................................... 6-32
6-III.E. Prorated Assistance for Mixed Families ....................................................................... 6-32

Exhibit 6-1: Annual Income Inclusions ....................................................................................... 6-33

HHS Definition of Assistance ........................................................................................................ 6-34

Exhibit 6-2: Annual Income Exclusions ....................................................................................... 6-35

Exhibit 6-3: Earned Income Disallowance for Persons with Disabilities ................................. 6-38

Exhibit 6-4: The Effect of Welfare Benefit Reduction .............................................................. 6-39

Addendum to Chapter 6 Determination of Assets at Initial Eligibility ..................................... 6-41

Treatment of Assets ...................................................................................................................... 6-41

7. Chapter 7—Verification ........................................................................................................... 7-1

Introduction ....................................................................................................................................... 7-1

Part I: General Verification Requirements .................................................................................. 7-1

7-I.A. Family Consent to Release of Information ........................................................................ 7-1
7-I.B. Overview of Verification Requirements ........................................................................... 7-2
7-I.C. Up-Front Income Verification (UIV) .................................................................................. 7-3
## Part I: Review of Documents
- 7-I.A. Verification of Legal Identity
- 7-I.B. Social Security Numbers
- 7-I.C. Documentation of Age
- 7-I.D. Family Relationships
- 7-I.E. Verification of Student Status
- 7-I.F. Documentation of Disability
- 7-I.G. Citizenship or Eligible Immigration Status
- 7-I.H. Verification of Preference Status

## Part II: Verifying Family Information
- 7-II.A. Verification of Legal Identity
- 7-II.B. Social Security Numbers
- 7-II.C. Documentation of Age
- 7-II.D. Family Relationships
- 7-II.E. Verification of Student Status
- 7-II.F. Documentation of Disability
- 7-II.G. Citizenship or Eligible Immigration Status
- 7-II.H. Verification of Preference Status

## Part III: Verifying Income
- 7-III.A. Earned Income
- 7-III.B. Business and Self Employment Income
- 7-III.C. Periodic Payments and Payments in Lieu of Earnings
- 7-III.D. Alimony or Child Support
- 7-III.E. Assets and Income from Assets
- 7-III.F. Net Income from Rental Property
- 7-III.G. Retirement Accounts
- 7-III.H. Income from Excluded Sources
- 7-III.I. Zero Annual Income Status
- 7-III.J. Student Financial Assistance
- 7-III.K. Parental Income of Students Subject to Eligibility Restrictions

## Part IV: Verifying Mandatory Deductions
- 7-IV.A. Dependent and Elderly/Disabled Household Deductions
- 7-IV.B. Medical Expense Deduction
- 7-IV.C. Disability Assistance Expenses
- 7-IV.D. Child Care Expenses

### Exhibit 7-1: Excerpt from HUD Verification Guidance Notice

### Exhibit 7-2: Summary of Documentation Requirements for Noncitizens
8. Chapter 8—Housing Quality Standards and Rent Reasonableness Determinations 8-1

Introduction ........................................................................................................................................... 8-1

Part I: Physical Standards ....................................................................................................................... 8-2
8-I.A. General HUD Requirements ........................................................................................................ 8-2
8-I.B. Additional Local Requirements ................................................................................................... 8-3
8-I.C. Life Threatening Conditions ......................................................................................................... 8-5
8-I.D. Owner and Family Responsibilities .......................................................................................... 8-6
8-I.E. Special Requirements for Children with Environmental Intervention Blood Lead Level .......... 8-6
8-I.F. Violation of HQS Space Standards ............................................................................................. 8-6
of City of Chicago Building Code ....................................................................................................... 8-7

Part II: The Inspection Process .............................................................................................................. 8-7
8-II.A. Overview ..................................................................................................................................... 8-7
8-II.B. Initial HQS Inspection ................................................................................................................ 8-8
8-II.C. Annual HQS Inspections ......................................................................................................... 8-9
8-II.D. Special Inspections .................................................................................................................... 8-10
8-II.E. Quality Control Inspections ..................................................................................................... 8-11
8-II.F. Inspection Results and Re-inspections for Units Under HAP Contract ....................................... 8-11
8-II.G. Enforcing Owner Compliance .................................................................................................. 8-12
8-II.H. Enforcing Family Compliance with HQS .................................................................................. 8-14

Part III: Rent Reasonableness ................................................................................................................. 8-14
8-III.B. When Rent Reasonableness Determinations Are Required ..................................................... 8-15
8-III.C. Establishing Comparability .................................................................................................... 8-16
8-III.D Rent Reasonableness Determination Methodology ................................................................. 8-17

Exhibit 8-1: Overview of HUD Housing Quality Standards ................................................................. 8-18
Exhibit 8-2: Summary of Tenant Preference Areas Related to Housing Quality ................................. 8-20

9. Chapter 9—General Leasing Policies ................................................................................................. 9-1

Introduction ............................................................................................................................................. 9-1
9-I.A. Tenant Screening .......................................................................................................................... 9-2
9-I.B. Requesting Tenancy Approval .................................................................................................. 9-2
9-I.C. Owner Participation ...................................................................................................................... 9-3
9-I.D. Eligible Units ............................................................................................................................... 9-3
<table>
<thead>
<tr>
<th>Part</th>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I.A.</td>
<td>Allowable Moves</td>
<td>10-1</td>
</tr>
<tr>
<td>I.B.</td>
<td>Restrictions on Moves</td>
<td>10-2</td>
</tr>
<tr>
<td>I.C.</td>
<td>Moving Process</td>
<td>10-5</td>
</tr>
<tr>
<td>II.A.</td>
<td>Overview</td>
<td>10-6</td>
</tr>
<tr>
<td>II.B.</td>
<td>Initial PHA Role</td>
<td>10-7</td>
</tr>
<tr>
<td>II.C.</td>
<td>Receiving PHA Role</td>
<td>10-12</td>
</tr>
<tr>
<td>9-I.E.</td>
<td>Lease and Tenancy Addendum</td>
<td>9-6</td>
</tr>
<tr>
<td>9-I.F.</td>
<td>Tenancy Approval</td>
<td>9-9</td>
</tr>
<tr>
<td>9-I.G.</td>
<td>HAP Contract Execution</td>
<td>9-10</td>
</tr>
<tr>
<td>9-I.H.</td>
<td>Changes in Lease or Rent</td>
<td>9-11</td>
</tr>
</tbody>
</table>

### 10. Chapter 10—Moving with Continued Assistance and Portability

**Introduction** ......................................................... 10-1

**Part I: Moving with Continued Assistance** ........................................... 10-1

10-I.A. Allowable Moves ......................................................... 10-1
10-I.B. Restrictions on Moves ..................................................... 10-2
10-I.C. Moving Process ............................................................ 10-5

**Part II: Portability** ............................................................. 10-6

10-II.A. Overview ................................................................. 10-6
10-II.B. Initial PHA Role .......................................................... 10-7
10-II.C. Receiving PHA Role ....................................................... 10-12

### 11. Chapter 11—Re-examinations

**Introduction** ................................................................. 11-1

**Part I: Regular Re-examinations** ............................................... 11-1

11-I.A. Overview .................................................................. 11-1
11-I.B. Scheduling Regular Re-examinations ................................. 11-2
11-I.C. Conducting Regular Re-examinations ................................. 11-3
11-I.D. Determining Ongoing Eligibility of Certain Students ............ 11-4
11-I.E. Effective Dates ............................................................ 11-5

**Part II: Interim Re-examinations** ............................................... 11-6

11-II.A. Overview .................................................................. 11-6
11-II.B. Changes in Family and Household Composition .................. 11-6
11-II.C. Changes Affecting Income or Expenses ............................. 11-7
11-II.D. Processing the Interim Re-examination .............................. 11-9

**Part III: Recalculating Family Share and Subsidy Amount** ............. 11-10

11-III.A. Overview .................................................................. 11-10
11-III.B. Changes in Payment Standards and Utility Allowances ....... 11-10
11-III.C. Notification of New Family Share and HAP Amount .......... 11-11
11-III.D. Discrepancies ............................................................. 11-11
12. Chapter 12—Termination of Assistance and Tenancy ................................. 12-1
   Part I: Grounds for Termination of Assistance ........................................... 12-1
      12-I.A. Overview ......................................................................................... 12-1
      12-I.B. Family No Longer Requires Assistance ........................................... 12-1
      12-I.C. Family Chooses to Terminate Assistance ........................................ 12-1
      12-I.D. Mandatory Termination of Assistance ............................................ 12-2
      12-I.E. Mandatory Policies and Other Authorized Terminations ................... 12-4

   Part II: Approach to Termination of Assistance ........................................... 12-8
      12-II.A. Overview ......................................................................................... 12-8
      12-II.B. Method of Termination ................................................................... 12-8
      12-II.C. Alternatives to Termination of Assistance ....................................... 12-8
      12-II.D. Criteria for Deciding to Terminate Assistance ............................... 12-9
      12-II.E. Terminating the Assistance of Domestic Violence, Dating Violence or Stalking Victims and Perpetrators .................................................................................................................. 12-10
      12-II.F. Termination Notice .......................................................................... 12-13
      12-II.G. How Termination of Assistance Affects the HAP Contract And Lease .......................................................... 12-14

   Part III: Termination of Tenancy by The Owner ........................................... 12-14
      12-III.A. Overview ......................................................................................... 12-14
      12-III.B. Grounds for Owner Termination of Tenancy ................................. 12-14
      12-III.C. Eviction .......................................................................................... 12-16
      12-III.D. Deciding Whether to Terminate Tenancy ...................................... 12-16
      12-III.E. Effect of Tenancy Termination on the Family’s Assistance .......... 12-17

   Exhibit 12-1: Statement of Family Obligations ............................................. 12-17

13. Chapter 13—Owners .................................................................................... 13-1
   Introduction ................................................................................................... 13-1
   Part I: Owners in the HCV Program ............................................................... 13-2
      13-I.A. Owner Recruitment and Retention .................................................... 13-2
      13-I.B. Basic HCV Program Requirements .................................................. 13-3
      13-I.C. Owner Responsibilities ...................................................................... 13-5
      13-I.D. Owner Qualifications ........................................................................ 13-6
      13-I.E. Non-Discrimination .......................................................................... 13-9
   Part II. HAP Contracts .................................................................................. 13-9
14. Chapter 14—Program Integrity ................................................................. 14-1
   Introduction ............................................................................................. 14-1
   Part I: Preventing, Detecting, and Investigating Errors and Program Abuse .......... 14-2
       14-I.A. Preventing Errors and Program Abuse ........................................... 14-2
       14-I.B. Detecting Errors And Program Abuse ........................................... 14-2
       14-I.C. Investigating Errors and Program Abuse ....................................... 14-4
   Part II: Corrective Measures and Penalties ................................................... 14-5
       14-II.A. Subsidy Under- or Over-Payments .............................................. 14-5
       14-II.B. Family-Caused Errors and Program Abuse ................................. 14-5
       14-II.C. Owner-Caused Error or Program Abuse ....................................... 14-7
       14-II.D. PHA-Caused Errors or Program Abuse ....................................... 14-8
       14-II.E. Criminal Prosecution .................................................................. 14-10
       14-II.F. Fraud and Program Abuse Recoveries .......................................... 14-10

   Introduction ............................................................................................. 15-1
   Part I: Single Room Occupancy .................................................................. 15-2
       15-I.A. Overview .................................................................................... 15-2
       15-I.C. Housing Quality Standards (HQS) ................................................. 15-2
   Part II: Congregate Housing ....................................................................... 15-3
       15-II.A. Overview ................................................................................... 15-3
       15-II.C. Housing Quality Standards ......................................................... 15-4
   Part III: Group Home ................................................................................. 15-4
       15-III.A. Overview ................................................................................... 15-4
       15-III.B. Payment Standard, Utility Allowance and HAP Calculation .......... 15-4
Part IV: Shared Housing .................................................................................................................. 15-6
  15-IV.A. Overview ...................................................................................................................... 15-6
  15-IV.B. Payment Standard, Utility Allowance and HAP Calculation ....................................... 15-6
  15-IV.C. Housing Quality Standards ......................................................................................... 15-6

Part V: Cooperative Housing ...................................................................................................... 15-7
  15-V.A. Overview ...................................................................................................................... 15-7
  15-V.B. Payment Standard, Utility Allowance and HAP Calculation ....................................... 15-7
  15-V.C. Housing Quality Standards ......................................................................................... 15-7

Part VI: Homeownership .......................................................................................................... 15-7
  15-VI.A. Overview ...................................................................................................................... 15-7
  15-VI.B. Family Eligibility ......................................................................................................... 15-8
  15-VI.C. Selection of Families .................................................................................................... 15-9
  15-VI.D. Eligible Units ............................................................................................................... 15-10
  15-VI.E. Additional PHA Requirements for Search and Purchase ........................................... 15-11
  15-VI.F. Homeownership Counseling ...................................................................................... 15-11
  15-VI.G. Home Inspections, Contract of Sale and PHA Disapproval of Seller ....................... 15-12
  15-VI.H. Financing .................................................................................................................... 15-13
  15-VI.I. Continued Assistance Requirements; Family Obligations .......................................... 15-14
  15-VI.J. Maximum Term of Homeowner Assistance ................................................................ 15-15
  15-VI.K. Homeownership Assistance Payments and Homeownership Expenses .................. 15-15
  15-VI.L. Portability ................................................................................................................... 15-17
  15-VI.M. Moving with Continued Assistance ........................................................................... 15-18
  15-VI.N. Denial or Termination of Assistance ......................................................................... 15-18

16. Chapter 16—Program Administration .................................................................................... 16-1

  Introduction ............................................................................................................................... 16-1

Part I: Administrative Fee Reserve ........................................................................................... 16-2

Part II: Setting Program Standards and Schedules ................................................................... 16-2
  16-II.A. Overview ..................................................................................................................... 16-2
  16-II.B. Payment Standards ..................................................................................................... 16-3
  16-II.C. Utility Allowances ....................................................................................................... 16-5

Part III: Informal Reviews and Hearings ................................................................................... 16-6
PVB assistance may be awarded to existing housing or substantially rehabilitated or newly constructed housing.

17-I.B. Tenant-Based Vs. Property-based Voucher Assistance ................................................................. 17-2

PART II: PVB Owner Proposals .................................................................................................................. 17-2

17-II.A. Overview ........................................................................................................................................ 17-2
17-II.B. Owner Proposal Selection Process ............................................................................................... 17-2
17-II.C. Housing Type .................................................................................................................................. 17-3
17-II.D. Prohibition of Assistance for Certain Units .................................................................................. 17-4
17-II.E. Subsidy Layering Requirements .................................................................................................... 17-5
17-II.F. Cap on Number of PVB Units in Each Property ......................................................................... 17-5
17-II.G. Site Selection Standards .............................................................................................................. 17-5
17-II.H. Environmental Review .................................................................................................................. 17-6

Part III: Dwelling Units ............................................................................................................................. 17-7

17-III.A. Overview ...................................................................................................................................... 17-7
17-III.B. Housing Quality Standards ......................................................................................................... 17-7
17-III.C. Housing Accessibility for Persons with Disabilities ................................................................. 17-7
17-III.D. Inspecting Units ............................................................................................................................. 17-8

PART IV: Substantial Rehabilitation and New Construction ................................................................. 17-9

17-IV.A. Overview ..................................................................................................................................... 17-9
17-IV.B. Agreement to Enter into HAP Contract ...................................................................................... 17-9
17-IV.C. Conduct of Development Work .................................................................................................. 17-9
17-IV.D. Completion of Housing ............................................................................................................... 17-10

PART V: Housing Assistance Payments Contract (HAP) ..................................................................... 17-10

17-V.A. Overview ......................................................................................................................................... 17-10
17-V.B. Amendments to the HAP Contract ............................................................................................... 17-12
17-V.C. HAP Effective, Anniversary and Expiration Dates .................................................................... 17-12
17-V.D. Owner Responsibilities Under the HAP ....................................................................................... 17-13
17-V.E. Additional HAP Requirements .................................................................................................... 17-13

Part VI: Selection of PVB Program Participants ..................................................................................... 17-14

17-VI.A. Overview ....................................................................................................................................... 17-14
17-VI.B. Eligibility For PVB Assistance .................................................................................................... 17-14
17-VI.C. Organization of the Waiting List ................................................................................................ 17-14
Part VII: Occupancy

Part VIII: Determining Rent to Owner

Part IX: Payments to Owner

GLOSSARY

Acronyms Used in Subsidized Housing

Glossary of Subsidized Housing Terms
Chapter 1—Overview of the Program and Plan

Introduction
The Chicago Housing Authority (CHA) receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development (HUD). The CHA is not a federal department or agency. The CHA is a municipal corporation, created and authorized by Illinois state law under the Housing Authorities Act, 310 ILCS 10/1 et seq. to develop and operate housing and housing programs for low-income families.

The CHA enters into Annual Contributions Contracts with HUD to administer the program requirements on behalf of HUD. The CHA does not administer the HCV program directly but employs contractors and subcontractors to administer the program on behalf of the CHA. The CHA and its contractors and subcontractors must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

The Chicago Housing Authority (CHA) is participating in the Department of Housing and Urban Development’s (HUD) Moving to Work (MTW) demonstration program. The CHA’s initial MTW Demonstration Agreement was signed by the CHA and HUD on February 6, 2000 at which time HUD granted the CHA authority to implement its Plan for Transformation. On June 26, 2008, the CHA and HUD signed the Amended and Restated MTW Agreement that extends the CHA’s participation in the MTW program until 2018.

MTW is a demonstration program that allows public housing agencies such as the CHA to design and test ways to:

- Promote self-sufficiency among assisted families
- Achieve programmatic efficiency and reduce costs
- Increase housing choice for low-income households

The MTW Agreement signed by the CHA and HUD is a statement of the authority granted to the CHA by HUD to waive selected statutory and regulatory requirements to allow the CHA flexibility in achieving the stated objectives of the Move to Work Demonstration.

The CHA has already implemented changes in its Housing Choice Voucher (HCV) Program to achieve these objectives and will continue to implement changes to its HCV Program in the future. In 2012, the CHA intends to implement a work requirement similar to the public housing Admission and Continued Occupancy Policy [ACOP]. More information on the CHA program changes is found in its Moving to Work Annual Plan that is posted on the CHA website.

This chapter contains information about the CHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the CHA administrative plan.
There are three parts to this chapter:

**Part I: The Chicago Housing Authority (CHA).** This part includes a description of the CHA, its jurisdiction, its programs, and its mission and intent.

**Part II: The HCV Program.** This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

**Part III: The HCV Administrative Plan.** This part discusses the purpose and organization of the plan and its revision requirements.

**Part I: The PHA**

1-I.A. Overview

This part explains the origin of the PHA’s creation and authorization, the general structure of the organization, and the relationship between the PHA Board and staff.

1-I.B. Organization and Structure of the PHA

The Section 8 tenant-based Housing Choice Voucher (HCV) program is funded by the federal government and administered by the Chicago Housing Authority for the jurisdiction of the City of Chicago, County of Cook, Illinois.

The officials of the CHA are known as commissioners or, collectively, as the Board of Commissioners. Commissioners are appointed in accordance with Illinois state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the CHA conducts business, ensuring that policies are followed by CHA staff and ensuring that the CHA is successful in its mission. The board is responsible for preserving and expanding the agency’s resources and assuring the agency’s continued viability.

Formal actions of the CHA are taken through written resolutions, adopted by the Board of Commissioners and entered into the official records of the CHA.

The principal staff member of the CHA is the Chief Executive Officer (CEO), hired and appointed by the board of commissioners. The CEO is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the CHA’s staff in order to manage the day-to-day operations of the CHA to ensure compliance with federal and Illinois state laws and directives for the programs managed. In addition, the CEO’s duties include budgeting and financial planning for the agency.

1-I.C. PHA Mission

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

**CHA Policy**

The CHA’s mission is to provide safe, decent and sanitary housing conditions for very low-income families and to manage resources efficiently. The CHA is to promote personal, economic and social upward mobility to provide families the opportunity to make the transition from subsidized to non-subsidized housing.
1-I.D. The PHA'S Programs

The following programs are included under this administrative plan:

### CHA Policy

The CHA’s administrative plan is applicable to the operation of the Housing Choice Voucher program. In addition, the administrative plan addresses policies for the following special programs:

- Single Room Occupancy Housing
- Congregate housing
- Group home
- Shared housing
- Cooperative housing (excluding families that are not cooperative members)
- Homeownership
- Property-Based Vouchers

1-I.E. The PHA’s Commitment to Ethics and Service

As a public service agency, the PHA is committed to providing excellent service to HCV program participants – families and owners – in the community. The PHA’s standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA’s mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA’s support systems and commitment to our employees and their development.

The PHA will make every effort to keep program participants and owners informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.
CHA Policy

The CHA will maintain proper standards of ethical conduct in the administration of the Housing Choice Voucher Program. To that end, the CHA have adopted the standards set forth in the Ethics Policy of the Chicago Housing Authority (as amended most recently on). A copy of this policy is attached as Appendix and made a part of the Administrative Plan. A copy of the CHA Ethics Policy is provided to all contractors, current officers and employees and to all new hires as part of the employee orientation.

Part II: The Housing Choice Voucher (HCV) Program

1-II.A. Overview and History of the Program

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the audience in understanding the program.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality (“housing quality standards”) and was within certain HUD-established rent limitations (“fair market rents”), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family’s adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.
From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as “conforming” rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

1-11.B. HCV Program Basics

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. The PHA is afforded choices in the operation of the program which are included in the PHA’s administrative plan, a document approved by the board of commissioners of the PHA.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the PHA’s jurisdiction and may also be eligible to move under portability to other PHAs’ jurisdictions.

When a family is determined to be eligible for the program and funding is available, the PHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the PHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The PHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

1-11.C. The HCV Partnerships

To administer the HCV program, the PHA enters into a contractual relationship with HUD under an Annual Contribution Contract. Since the CHA is also participating in the MTW demonstration, the CHA also entered into a MTW Demonstration Agreement with HUD. The CHA also enters into contractual relationships with the assisted family and the owner or property manager of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the PHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

The chart on the next page illustrates key aspects of these relationships.
The HCV Relationships

Congress Appropriates Funding

HUD Provides Funding To PHA

Program Regulations and ACC specifies PHA Obligations and Voucher Funding

PHA Administers Program

Voucher specifies Family Obligations

Housing Assistance Payments (HAP) Contract specifies Owner and PHA Obligations

Lease specifies Tenant and Owner/Property Manager Obligations

Owner/Property Manager

Family (Program Participant)
What Does HUD Do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor the PHA compliance with HCV program requirements and the PHA performance in program administration.

What Does the PHA Do?

The PHA administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;
- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA’s administrative plan, and other applicable federal, state and local laws.

What Does the Owner Do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
  - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments (HAP) contract, and any applicable riders, executed with the PHA;
Comply with the rules, policies and procedures contained in the PHA Administrative Plan and applicable procedures and riders;
Comply with all applicable fair housing laws and discriminate against no one;
Maintain the housing unit by making necessary repairs in a timely manner;
Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What Does the Family Do?

The family has the following responsibilities:

- Provide the PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program;
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
- Attend all appointments scheduled by the PHA;
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the voucher;
- Comply with the rules, policies and procedures contained in the PHA Administrative Plan and applicable procedures and riders;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the PHA and the owner before moving or terminating the lease;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the PHA of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled effectively.
**1-II.D. Applicable Regulations**

Applicable regulations, except as modified in the approved MTW Demonstration Agreement, include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR 983: Property-Based Voucher Program
- 24 CFR 984: Section 8 and Public Housing Family Self-Sufficiency Program
- 24 CFR 085: Section 8 Management Assessment Program (SEMAP)

**Part III: The HCV Program Administrative Plan**

**1-III.A. Overview and Purpose of the Plan**

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the PHA's agency plan. This administrative plan is a supporting document to the PHA agency plan, and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to the HCV program not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

**CHA Policy**

In carrying out its responsibilities under the administrative plan, the CHA will notify applicants and program participants of required actions in writing as specified in the administrative plan. The CHA will consider that the applicant or participant has received the written notice five calendar days after the day the notice is mailed by the PHA to the last known address.

The PHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of the PHA shall be in compliance with the PHA's personnel policies and procedures and HUD's program regulations as well as all federal, state and local fair housing laws and regulations.

**1-III.B. Contents of the Plan**

[24 CFR 982.54]

HUD regulations contain a list of what must be included in the administrative plan. The PHA administrative plan must cover PHA policies on these subjects:
• Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapter 4);

• Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions or suspensions of the voucher term. ‘Suspension’ means stopping the clock on the term of a family’s voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension (Chapter 5);

• Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);

• Occupancy policies, including definition of what group of persons may qualify as a ‘family’, definition of when a family is considered to be ‘continuously assisted’; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);

• Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);

• Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);

• Providing information about a family to prospective owners (Chapters 3 and 9);

• Disapproval of owners (Chapter 13);

• Subsidy standards (Chapter 5);

• Family absence from the dwelling unit (Chapter 12);

• How to determine who remains in the program if a family breaks up (Chapter 3);

• Informal review procedures for applicants (Chapter 16);

• Informal hearing procedures for participants (Chapter 16);

• The process for establishing and revising voucher payment standards (Chapter 16);

• The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);

• Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);

• Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);

• Interim redeterminations of family income and composition (Chapter 11);

• Restrictions, if any, on the number of moves by a participant family (Chapter 10);

• Approval by the Board of Commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);

• Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and

• PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).
Mandatory vs. Discretionary Policy

HUD makes a distinction between:

- **Mandatory policies**: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- **Optional, non-binding guidance**: including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects the PHA to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The PHA's administrative plan is the foundation of those policies and procedures. HUD’s directions require the PHA to make policy choices that provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance is not mandatory. While HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies, if the PHA adopts an alternative strategy, the PHA will make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements.

1-III.C. Organization of the Plan

The Plan is organized to provide information to users in particular areas of operation.

1-III.D. Updating and Revising the Plan

The PHA will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

**CHA Policy**

The CHA will review and update the plan at least once a year, and more often if needed, to reflect changes in regulations, CHA operations, or when needed to ensure staff consistency in operation.
Chapter 2—Fair Housing and Equal Opportunity

Introduction

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHA’s housing choice voucher (HCV) operations.

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the PHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the housing choice voucher program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act of 1968 (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD and DOJ’s Notice of Guidance, published December 19, 2003 in the Federal Register.
Part I: Nondiscrimination

2-I.A. Overview

Federal laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- Illinois Safe Homes Act
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted
- The Voluntary Compliance Agreement (VCA) between a PHA and the U.S. Department of Housing and Urban Development effective from May 1, 2006 thru May 1, 2013 (to the extent that it applies).

2-I.B. Nondiscrimination

State and local nondiscrimination laws or ordinances apply to the CHA, and in particular the Illinois Human Rights Act, 775 ILCS 5/3-101; the Cook County Human Rights Act; Board of Commissioners 93-013; and the Chicago Fair Housing Ordinance, Municipal Code 5-8-010. Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”) or other protected classes under State and local laws, including but not limited to gender identity, military discharge status, source of income,

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

CHA Policy
The CHA will not discriminate on the basis of marital status or sexual orientation or other protected classes under state and local codes.
The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Harass or create an intimidating, hostile, or offensive environment with respect to any protected class
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.
Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

CHA Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the CHA either orally or in writing.

The CHA will attempt to remedy discrimination complaints made against the CHA and will provide applicants and participants with a copy of the Discrimination Complaint Form and Procedures.

The CHA will provide a copy to applicants and participants of HUD's discrimination complaint form and the information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO). In addition, the CHA will provide information about where and how to file discrimination complaint based on a protected class, not covered under federal law.

Part II: Policies Related to Persons with Disabilities

2-II.A. Overview

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program.

CHA Policy

The CHA will ask all applicants and participants if they require any type of accommodations in writing on the intake application, reexamination documents, and notices of adverse action by the CHA, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority.”

The CHA will extend the opportunity to request a reasonable accommodation to all applicants and participants throughout the time of their involvement with the HCV program. An applicant or participant may request a reasonable accommodation at any time. However, the CHA will specifically inquire about the need for a reasonable accommodation at the time of the program events identified above.
2-II.B. Definition of Reasonable Accommodation

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

Types of Reasonable Accommodations

When needed, the PHA must modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Extending the time necessary to acquire documents and otherwise participate in the regular reexamination process
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA’s office in such a manner as to be easily readable from a wheelchair
2-II.C. Request for an Accommodation

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the PHA’s programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual’s disability.

**CHA Policy**

The CHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the CHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. The preferred method is to utilize the “Request for Reasonable Accommodation” form.

The Reasonable Accommodation Request forms are available at the CHA offices or on the CHA’s website at www.thecha.org.

If the individual with a disability is unable to submit their request in writing, the CHA will assist the individual to put their request in written form. The program participants should contact the CHA and owner/property manager about their reasonable accommodation needs.

Decisions to approve or deny requests for reasonable accommodations shall be made on a case-by-case basis. If the applicant/participant disagrees with the denial of the reasonable accommodation, the applicant may request an informal review or the participant may request an informal hearing.

2-II.D. Verification of Disability

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the PHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family’s access to the PHA’s programs and services.

If a person’s disability is obvious or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.
When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person’s disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual’s disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.

Medical records will not be accepted or retained in the participant file.

**CHA Policy**

The CHA must obtain verification of a Request for Reasonable Accommodation from a knowledgeable professional identified by the family. If a verification form is not returned by the knowledgeable professional within thirty (30) calendar days, the family must follow-up with knowledgeable professional. The CHA will also attempt to obtain verification by third party means including U.S. postal service, fax, email, and when all other means fail, hand-carried by the family or verbally by a telephone call initiated by the CHA.

For continued approval the family must submit a new, written request subject to the CHA’s verification at each regular reexamination.
2-II.E. Approval/Denial of a Requested Accommodation

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The PHA must approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA’s HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family’s disability-related needs.

Before making a determination whether to approve the request, the PHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the PHA may verify the need for the requested accommodation.

CHA Policy

After a request for an accommodation is presented, the CHA will respond, in writing, within 30 calendar days.

If the CHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the CHA’s operations), the CHA will discuss with the family whether an alternative accommodation could effectively address the family’s disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the CHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the CHA will notify the family, in writing, of its determination within ten (10) calendar days from the date of the most recent discussion or communication with the family.
2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

**CHA Policy**

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with CHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. Physical Accessibility

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA’s policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern the PHA’s responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the HCV offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.
When issuing a voucher to a family that includes an individual with disabilities, the PHA will include a current list of available accessible units known to the PHA and will assist the family in locating an available accessible unit, if necessary. The PHA will provide information to a family about the PHA’s Modification Fund in order to assist families to fully enjoy their units. Participants deemed eligible may apply and receive the service when funding is available. In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family’s expense when the family moves.

2-II.H. Denial or Termination of Assistance

A PHA decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA’s informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a participant family’s assistance is terminated, the notice of termination must inform them of the PHA’s informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA’s decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.

Part III: Improving Access to Services for Persons with Limited English Proficiency

2-III.A. Overview

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

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

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the PHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and
importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

2-III.B. Oral Interpretation

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the PHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

CHA Policy

The CHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, the CHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, the CHA will encourage the use of qualified community volunteers.

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

2-III.C. Written Translation

Translation is the replacement of a written text from one language into an equivalent written text in another language.

CHA Policy

In order to comply with written-translation obligations, the CHA will take the following steps:

- The CHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the CHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.
2-III.D. Implementation Plan

The PHA’s Limited English Proficiency (LEP) plan will serve as guidance in order to provide assistance to clients with Limited English Proficiency to ensure that they will be able to have equal access to the Chicago Housing Choice Voucher Program and to related programs and services offered by the PHA.

After completing a five step process including: (1) Identifying LEP individuals who need language assistance services; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan, the PHA has developed a written implementation plan to address the identified needs of the LEP populations it serves. While many aspects of the PHA’s LEP plan are currently implemented by PHA practice, the PHA’s LEP plan is expected to become fully implemented by the PHA in 2009.

In order to ensure that current and potential clients’ needs are met, the LEP Plan will be reviewed on an annual basis, and the following will be implemented:

- Procedures, services and activities described in this plan will be monitored to ensure compliance.
- Demographic changes of the current and potential client base and their language needs will be reviewed periodically in order to determine whether or not changes to the current plan need to be made.
- Existing documents and services will be reviewed and updated as needed.
- On-going refresher training will be provided for new and current staff.
- Staff and managers will be encouraged to provide input, suggestions, and changes to the LEP Plan in order to provide better service to clients.
- Dialogue with sub-contractors, community agencies, elected officials and others will be used in part to seek feedback for services rendered to LEP clients/constituents and to ascertain whether changes need to be made to the LEP Plan.

Recommendations for changes to the LEP Plan will be reviewed and approved by the Executive Team.
Exhibit 2-1: Definition of a Person with a Disability under Federal Civil Rights Laws
[24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “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, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.
The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the $480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

**Affirmatively Furthering Fair Housing Statement**

**HCV Program—FY 2010 Administrative Plan Addendum**

Equal housing opportunity for all persons, regardless of race, color, national origin, religion, age, sex, familial status, marital status, parental status, sexual orientation, military status or disability, is a fundamental policy of the CHA. The CHA is committed to diligence in assuring equal housing opportunity and non-discrimination in all aspects of its housing activities. The CHA has embraced an ethical as well as legal imperative to aggressively ensure that the CHA’s housing programs comply fully with all local, state and federal fair housing laws including, the Fair Housing Act of 1968, as amended (Fair Housing Act) and its implementing regulations as well as the Cook County Human Rights Ordinance, the Illinois Human Rights Act, the Chicago Human Rights Ordinance and the Illinois Safe Homes Act. Additionally, the CHA is implementing several special initiatives to affirmatively further fair housing as required by Section 808(e) (5) of the Fair Housing Act. These efforts to affirmatively further fair housing include; promoting the de-concentration of poverty, income-mixing, and opportunities for families to live in the various diverse communities in the City of Chicago.

To affirmatively further fair housing in the Housing Choice Voucher Program, including Family Unification Program (FUP) participants, the CHA:

1) Promotes housing choice through ongoing educational opportunities by:
   a. Requiring ongoing training of CHA staff and its HCV contractors on Fair Housing regulations and requirements, including ADA/504 rules.
   b. Providing opportunity for staff to attend cultural/racial diversity training.
   c. Supporting and participating in fair housing educational programs hosted by local partners such as the Human Rights Commission, Chicago Lawyers’ Committee for Civil Rights, Chicago Area Fair Housing Alliance (a coalition of well known fair housing organizations in Metropolitan Chicago), and Spanish Coalition for Housing.
   d. Providing fair housing literature that describes applicable local, federal and state fair housing laws and regulations.
   e. Supporting state and local Fair Housing Month (April) activities.

2) Ensures that all the CHA buildings and communications facilitate service delivery and are accessible to persons with disabilities. If requested, services can be provided at other locations. TTY telephone communications are available at all locations.

3) Operates four HCV Satellite Offices within Chicago that offer applicants and participants an opportunity to process their paperwork and research housing information in resource rooms that are conveniently located.

4) Prominently display of the Equal Housing Opportunity poster in all of its offices.
5) Participates in two web-based housing locator services listed below:
   - www.ILHousingSearch.org, which is sponsored by the Illinois Housing Development Authority, in an effort to overcome the barriers to finding safe and affordable housing. Owners/property managers throughout the State are encouraged to list affordable housing units and provide specific descriptions of accessibility features.
   - www.movesmart.org, sponsored by a Chicago-based non-profit that educates housing seekers about the benefits of integrative moves while at the same time providing suggestions on where to move, guides on how to move, and information on how to get involved in their new neighborhoods, inspiring pride in a new community and putting them on a path to true integration.

6) Provides fair housing information at the initial briefing including; how to find a safe and affordable unit and leasing provisions that are prohibited under law. Information is provided during the initial briefing on how to file a Fair Housing Complaint with the CHA’s Fair Housing Compliance Department and HUD. Local telephone numbers are provided for the tenant to call to submit a fair housing complaint along with the telephone numbers for the Housing Discrimination Hotline, 1-800-669-9777 and the federal Information Relay Service line at 1-800-887-8339. Applicants and participants are also encouraged to contact the CHA’s ADA/Section 504 Compliance Department, Telephone (312) 913-7072 or (312) 454-1748 TTY.

7) Distributes the CHA Housing Discrimination Form and the HUD Housing Discrimination Complaint form to voucher holders and participants which provides information on what housing discrimination is and the steps the tenant should take to submit a detailed report.

8) Sponsors a $100,000 annual Modification Fund for owners/property managers to make structural modifications to their units as reasonable accommodations for HCV participants. The fund is carried out in partnership with Access Living and the Mayor’s Office for People with Disabilities. The CHA refers owners/property managers to other local agencies when such funds are insufficient to cover the costs.

9) Has written policies and procedures on Reasonable Accommodation. These are outlined in the HCV Administrative Plan and Procedure Manual and are explained to HCV applicants at the time of the initial briefing.

10) Approves exception rents for units that are in housing opportunity areas and/or have accessibility features for persons with disabilities. Criteria for approving higher rents for reasonable accommodations and moves to opportunity neighborhoods are outlined in the HCV rent reasonableness procedures.

11) Routinely examines current and proposed programs to ensure compliance and identify impediments to fair housing choice within these programs. The CHA has a commitment to work with the City of Chicago and the State of Illinois on addressing identified impediments to fair housing.

12) Maintains analyses and records of actions to remove fair housing barriers, including claims filed, basis for claims, actions taken, settlement agreements, and administrative hearing decisions. The CHA works with the City of Chicago and State of Illinois to plan and implement strategies to interdict identified discriminatory barriers such as those based on racial steering, source of income, women with children, gentrification, and accessibility for persons with disabilities.
13) Refers families who are at risk of losing housing assistance to local service providers for assistance with maintaining lease compliance.

14) Has provided a preference for housing with supportive services as part of its property-based voucher program. Such programs are offered in partnership with the City of Chicago and its Plan to End Homelessness. Further, the CHA is seeking authority under its FY 2010 MTW Plan to fund social services gaps when other sources of funds have been exhausted in order to sustain support services where they are vital for tenants and overall successful property management.

15) Publishes a quarterly participant newsletter which features articles on fair housing, housing search, and family obligations.

16) Administers a Tax Savings Program for owners/property managers whose HCV housing units are located in areas with less than 10 percent poverty.

17) Operates a voluntary HCV mobility counseling program. This program offers participants additional assistance in finding units in opportunity areas within the City of Chicago that are defined based on characteristics such as income, education, accessibility and other demographic measures.

18) Employs an active owner/property manager recruitment strategy that includes recruiting to expand housing choice for program participants. This strategy includes an HCV Owner's Council and focus groups that provide input on owner/property manager recruitment and retention measures, membership in the Chicagoland Apartment Association, a quarterly owner/property manager newsletter, an annual Owner Symposium, and an Owner's Excellence Program (currently under development). The Owner's Excellence program is designed to provide bonuses for HCV owners/property managers who demonstrate exceptional program participation. Bonuses may include fewer inspection requirements, a dedicated phone line, priority responses to issues, discounts with local merchants, free classes, and other potential financial incentives.

19) Operates a Fair Housing Compliance Department within the Housing Policy and Legislation division of the Office of the General Counsel. The Fair Housing Compliance Department provides guidance to all programs throughout the CHA on fair housing laws, policies and regulations; operates a Fair Housing Support line for HCV applicants, participants and owners/property managers; contracts with outside agencies to conduct fair housing testing and create an analysis of impediments; works with attorneys within the CHA’s legal department to respond to fair housing complaints; partners with outside agencies to provide training and education to CHA staff and HCV contractors and will investigate housing complaints filed internally through the Discrimination Complaint form.

Additional Affirmative Measures to Further Fair Housing for Family Unification Program Applicants and Participants

1) Provides a preference for families (including youth aging out of foster care) on the CHA HCV Waiting List to receive FUP vouchers. To identify families who may be FUP eligible, the CHA and Illinois Department of Family and Children Services (DFCS) perform a confidential, computer match between the CHA Waiting List with the DFCS data base of families meeting FUP criteria. Identified families on the Waiting List are given preference for admission in the FUP program based on their lottery number on the Waiting list. Should the families choose not to participate in FUP, they retain their status on the HCV Waiting List. If there are not sufficient FUP-eligible families on CHA’s Waiting List, DFCS case workers will provide certification of eligibility for additional families for placement on the CHA HCV Waiting List. Eligible families are placed on the CHA’s waiting list in order of first come, first served for FUP vouchers only.
2) Collaborates with DFCS case workers to assist FUP applicants in identifying safe and affordable housing units along with other wrap-around support services.

3) Works closely with DFCS case managers to ensure that FUP Voucher participants have access to supportive services to assist FUP voucher holders in becoming self-sufficient and independent.
Chapter 3—Eligibility

Introduction
The PHA is responsible for ensuring that every individual and family admitted to the HCV program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family’s assistance.

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for family members as required.
  - Consent to the PHA’s collection and use of family information as provided for in PHA-provided consent forms.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and PHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Assistance. This part covers factors related to an applicant’s past or current conduct (e.g. criminal activity) that can cause the PHA to deny assistance.
Part I: Definitions of Family and Household Members

3-I.A. Overview
Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

3-I.B. Family and Household
[24 CFR 982.201(C), HUD-50058 lb, P. 13]

The terms family and household have different meanings in the HCV program.

Family
To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. Family as defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. A single person family may be an elderly person, a displaced person, a disabled person, or any other single person. The PHA has the discretion to determine if any other group of persons qualifies as a family.

CHA Policy
A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual’s income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family’s composition changes.

The addition of a new family member should be limited to birth, adoption, court-awarded custody, legal guardianship, marriage, civil union, domestic partnership, reasonable accommodation, or elderly parents.

Household
Household is a broader term that includes additional people who, with the PHA’s permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Household members will appear on the voucher but do not qualify as remaining family members to assume the voucher.
3-I.C. Family Break-Up and Remaining Members of Tenant Family

Family Break-up [24 CFR 982.315]
The PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property, specifically addressing the continued receipt of a housing subsidy, between members of the assisted family in a divorce or separation decree, the PHA will follow the court’s determination of which family members continue to receive assistance. Such court determination does not waive the requirement that the assisted family members must continue to meet the PHA and HCV program screening requirements and eligibility criteria.

CHA Policy
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 if the waiting list is open. Exceptions to this policy will be reviewed on a case by case basis and determinations made at the discretion of the CHA given the circumstances presented.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

The CHA will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors: (1) head of household on the application or lease, (2) a judicial decision indicating which individual will remain eligible for the assistance, or will continue to receive assistance; (3) documentation of an agreement among the original family members; (4) the interest of any minor children, including custody arrangements, (5) the interest of any ill, elderly, or disabled family members, (6) any possible risks to family members as a result of domestic violence, sexual violence, dating violence, or stalking or criminal activity, and (7) the recommendations of social service professionals.

Remaining Members of a Tenant Family [24 CFR 5.403]
The HUD definition of family includes the remaining member of a tenant family, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family to assume the voucher.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”
3-I.D. Head of Household
[24 CFR 5.504(B)]

*Head of household* means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

**CHA Policy**

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

3-I.E. Spouse, Co-Head, and Other Adult

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13].

**Spouse** means the marriage partner of the head of household.

**CHA Policy**

The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse. The State of Illinois does not recognize common law marriages contracted in Illinois after June 30, 1905.

A **co-head of household** ("co-head") is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

**CHA Policy**

Minors who are emancipated under state law may be designated as a co-head.

**Other adult** means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

3-I.F. Dependent
[24 CFR 5.603]

A **dependent** is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

**Joint Custody of Dependents**

**CHA Policy**

Dependents who are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time or are otherwise designated by a Joint Parenting Agreement to the parent who maintains primary residence of the child or children.
Individuals with joint custody arrangements entered into in a state other than Illinois may be required to provide documentation of joint custody and/or evidence of the primary residence of a child or the children.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody and/or primary residence as set forth in a judgment or court decision at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the CHA will make the determination based on available documents such as court orders, school enrollment records, benefit/subsidy records, or an IRS return showing which family has claimed the child for income tax purposes.

3-I.G. Full-Time Student
[24 CFR 5.603; HCV GB, p. 5-29]

A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction, and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. Elderly and Near-Elderly Persons, and Elderly Family
[24 CFR 5.100 and 5.403]

Elderly Persons
An elderly person is a person who is at least 62 years of age.

Near-Elderly Persons
A near-elderly person is a person who is 50-61 years of age.

Elderly Family
An elderly family is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

3-I.I. Persons with Disabilities and Disabled Family
[24 CFR 5.403]

Persons with Disabilities
Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the PHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person’s disability.
Disabled Family
A disabled family is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

3-I.J. Guests
[24 CFR 5.100]

A guest is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent.

CHA Policy

A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, who are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

This is a programmatic condition and is separate from and in addition to any lease term or condition entered into between the assisted family and owner. Failure to adhere to this policy by an assisted family can result in termination of a family from the program.

3-I.K. Foster Children and Foster Adults

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term foster child is not specifically defined by the regulations.

Foster children and foster adults who are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].
CHA Policy

A foster child is a child who is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

It should be noted that if a head of household designates an individual as a foster child or foster adult, the CHA will not consider foster child or foster adult a family member for purposes of program administration, even though such individual may be related by blood or marriage to a head of household or other family members. This is to clarify confusion among program participants. A head of household must choose one designation for such an individual (foster child/adult or family member), and cannot receive the benefits of both designations at the same time.

Foster child/adult, even if such individual is related by blood or marriage, will not qualify as a remaining family member for eligibility to obtain the voucher.

Children who are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. Absent Family Members

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, physical safety, hospitalization, illness, incarceration, and court order.

Definitions of Temporarily and Permanently Absent

CHA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. However, a victim of domestic violence, sexual violence, dating violence, or stalking that is absent for more than 180 days may still be considered a family member based on documentation that the victim is expected to return to the family in a reasonable time. Exceptions to this general policy are discussed below.

Absent Students

CHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the CHA indicating that the student has established a separate household or the family declares that the student has established a separate household.
Absences Due to Placement in Foster Care

[24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

**CHA Policy**

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

The family head, spouse, or co-head is responsible for keeping the CHA notified of changes in the family composition. If the family head, spouse, or co-head receives verification that the child has been permanently removed from the home, the assisted family must supply the information to the CHA. Failure to supply the information in a timely manner is cause for termination of the assisted voucher.

**Absent Head, Spouse, or Co-head**

**CHA Policy**

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

**Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]**

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

**CHA Policy**

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

**Return of Permanently Absent Family Members**

**CHA Policy**

The family must request the CHA’s approval for the return of any adult family members that the CHA has determined to be permanently absent. The CHA will only approve the return of elderly persons or persons with disabilities. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

**3-I.M. Live-In Aide**

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined by a knowledgeable professional to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.
A live-in aide is a member of the household, but is not a family member, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

**CHA Policy**
A family’s request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to the CHA verification-at each regular reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services. The person submitted by the family as a live-in aide will be required to submit to a criminal background screening prior to any final determination by the CHA.

The CHA will not approve a particular person as a live-in aide, and may withdraw such approval if the person does not pass screening, including, but not limited to [24 CFR 982.316(b)]:

- Fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- A record of drug-related criminal activity or violent criminal activity which includes arrest and/or conviction;
- Illegal possession and use of a firearm or aggravated assault weapon in violation of federal, state or local criminal or civil laws; or
- Owes rent or other amounts to the CHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Within 30 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, the CHA will notify the family of its decision in writing.

**Part II: Basic Eligibility Criteria**

**3-II.A. Income Eligibility and Targeting**

**Income Limits**
HUD is required by law to set income limits that determine the eligibility of applicants for HUD’s assisted housing programs, including the housing choice voucher program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

**Types of Low-Income Families**
[24 CFR 5.603(b)]
Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility
[24 CFR 982.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be one of the following:

- A very low-income family
- A low-income family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]

CHA Policy

The CHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the CHA.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

HUD permits the PHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA’s jurisdiction.

CHA Policy

The CHA will utilize the low-income limit for all applicants.
Using Income Limits for Targeting
[24 CFR 982.201]

At least 75 percent of the families admitted to the PHA’s program during a PHA fiscal year must have incomes that are below the very low-income limit.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

3-II.B. Citizenship or Eligible Immigration Status
[24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the PHA’s Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration
[24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

CHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the CHA receives information indicating that an individual’s declaration may not be accurate.
Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person’s age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member’s ineligible status and is not required to report an individual’s unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered mixed families. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

Ineligible Families

[24 CFR 5.514(d), (e), and (f)]

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the PHA in accordance with program requirements [24 CFR 5.512(a)].

CHA Policy

The CHA will not provide assistance to a family before the verification of eligibility of all family members.

When the CHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 calendar days of the determination.
The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the CHA. The informal hearing with the CHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16.

**Timeframe for Determination of Citizenship Status**
[24 CFR 5.508(g)]

For new occupants joining the assisted family, the PHA must verify status at the first interim or regular reexamination following the person’s occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

**CHA Policy**

The CHA will verify the status of applicants at the time other eligibility factors are determined.

**3-II.C. Social Security Numbers**
[24 CFR 5.216 and 5.218]

The applicant and all members of the applicant’s household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7.

*Note:* These requirements do not apply to non-citizens who do not contend eligible immigration status.

If the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time, but assistance cannot be provided to the family until all SSN documentation requirements are met.

**CHA Policy**

The CHA will allow the family to retain its place on the waiting list for 180 calendar days *pending* disclosure and documentation of social security numbers. If all household members have not disclosed their SSNs at the next time the CHA is issuing vouchers, the CHA will issue a voucher to the next eligible applicant family on the waiting list.
In addition, each participant who has not previously disclosed a SSN has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN, must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempted from this requirement.

When the participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has a SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household.

The PHA is required to grant the participant an additional 90 calendar day period to comply with the requirement if the PHA determines that the participant’s failure to comply was due to unforeseen circumstances and was outside of the participant’s control. During the period the PHA is awaiting documentation of the SSN, the child is required to be counted as part of the assisted household.

**CHA Policy**

The CHA will grant one additional 90-day extension if needed for reasons beyond the applicant’s control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency approved by CHA.

While the CHA is awaiting disclosure and documentation of the SSN, the child will be counted as part of the assisted household, and the CHA will generate an ALT ID in the Public and Indian Housing Information Center (PIC). The ALT ID will be deleted within 30 calendar days of receipt of the SSN.

If a participant or any member of the household has been assigned a new SSN, it must be submitted at the time of receipt of the SSN, at the next interim or annual reexamination or recertification, or at an earlier time specified by the PHA, along with the documentation necessary for verification in order for the participant to remain eligible.

**CHA Policy**

If a participant or any member of the household has been assigned a new SSN, it must be submitted at the time of the interim or regular reexamination, whichever comes first.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.
3-II.D. Family Consent to Release of Information
[24 CFR 5.230, HCV GB, p. 5-13]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family’s eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

Program participants requesting assistance and protection under VAWA may make a claim for protection using Form HUD 50066.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

3-II.E. Students Enrolled in Institutions of Higher Education
[24 CFR 5.612 and FR Notice 4/10/06]

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student’s eligibility must be examined along with the income eligibility of the student’s parents. In these cases, both the student and the student’s parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with PHA policy, the income of the student’s parents will not be considered in determining the student’s eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions [FR 4/10/06, p. 18148].

Dependent Child
In the context of the student eligibility restrictions, dependent child means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of dependent in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.
Independent Student

CHA Policy
The CHA will consider a student “independent” from his or her parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.
- To be considered an independent student according to the Department of Education, a student must meet one or more of the following criteria:
  - Be at least 24 years old by December 31 of the award year for which aid is sought
  - Be an orphan or a ward of the court through the age of 18
  - Be a veteran of the U.S. Armed Forces
  - Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
  - Be a graduate or professional student
  - Be married
  - Is a person with disabilities and was receiving assistance under Section 8 of the 1937 Act as of November 30, 2005
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents’ most recent tax forms.
- The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

The CHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

Institution of Higher Education
The PHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an institution of higher education (see Exhibit 3-2).

Parents

CHA Policy
For purposes of student eligibility restrictions, the definition of parents includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).
Veteran

CHA Policy

A veteran is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the PHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the PHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student's parents are income eligible for the program, and (3) the “family” with which the student is applying is collectively eligible for the program.

CHA Policy

For any student who is subject to the 5.612 restrictions, the CHA will:

- Follow its usual policies in determining whether the student individually and the student’s “family” collectively are eligible for the program
- Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

If the CHA determines that the student, the student's parents (if applicable), or the student's “family” is not eligible, the CHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

Determining Parental Income Eligibility

CHA Policy

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of independent student in this section, the CHA will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, the CHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the CHA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the CHA will obtain an income declaration and certification of income from each parent.
If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the CHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The CHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, the CHA will use the income limits for the jurisdiction in which the parents live.

Part III: Denial of Assistance

3-III.A. Overview
A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance.

In addition, HUD requires or permits the PHA to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial
[24 CFR 982.552(a) (2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures

Prohibited Reasons for Denial of Program Assistance

HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin and other protected classes under State and local laws. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant has been a victim of domestic violence, sexual violence, dating violence, or stalking.
3-III.B. Mandatory Denial of Assistance

[24 CFR 982.553(a)]

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

  **CHA Policy**
  The CHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the CHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the CHA, or the person who committed the crime, is no longer living in the household.

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

  **CHA Policy**
  *Currently engaged in* is defined as any use of illegal drugs during the previous six months.

- The PHA has reasonable cause to believe that any household member’s current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

  **CHA Policy**
  In determining reasonable cause, the CHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. The CHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing

  **CHA Policy**
  If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing; the family will be denied assistance.
• Any household member is subject to a lifetime registration requirement under a state sex offender registration program

CHAPA Policy
If any household member's criminal activity is such that requires them to be registered as a sex offender under a State registration requirement, whether life time or lesser registration, including the ten year Illinois State Sex Offender Registration Act; the family will be denied assistance.

• If any household member has ever been convicted of arson or child molestation the family will be denied assistance.

3-III.C. Other Permitted Reasons for Denial of Assistance
HUD permits, but does not require, the PHA to deny assistance for the reasons discussed in this section.

Criminal Activity
[24 CFR 982.553]
HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

CHAPA Policy
If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five (5) years, the family will be denied assistance.

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Paroled or released from a facility for violent criminal activity.

Illegal possession and use of a firearm or aggravated assault weapon in violation of federal, state or local criminal or civil laws.

Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the CHA (including a CHA employee or a CHA contractor, subcontractor, or agent).
Immediate vicinity means within a one mile radius of the premises.

Evidence of such criminal activity includes, but is not limited to:

- Any conviction for drug-related or violent criminal activity within the past 5 years.
- Any arrest for drug-related or violent criminal activity within the past 5 years.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity. A pattern of illegal use of drugs or violent criminal activity, whether established by one or more arrests or one or more convictions of the same or similar criminal activity will be given more weight than a single arrest for such activity.
- A record that an applicant or household member has been paroled or released from a facility for violence to persons or property within the past five (5) years.

In making its decision to deny assistance, the CHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the CHA may, on a case-by-case basis, decide not to deny assistance.

Previous Behavior in Assisted Housing
[24 CFR 982.552(c)]

HUD authorizes the PHA to deny assistance based on the family’s previous behavior in assisted housing:

**CHA Policy**

The CHA will **not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

The CHA will deny assistance to an applicant family if:

- The family does not provide complete or accurate information that the CHA or HUD determines is necessary in the administration of the program.
- Any household member has been convicted of child molestation and/or arson.
- Any household member is subject to the State of Illinois 10 Year Sex Offender Statute and/or any other state registration requirement where the family member is known to have resided.
- Any family member has been evicted from federally-assisted housing in the last five years.
- Any PHA has previously terminated assistance for any family member under any federal assisted housing program within the last 10 years. This policy excludes voluntary terminations.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.
If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with the CHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward CHA personnel (including a CHA employee or a CHA contractor, subcontractor, or agent).

Abusive or violent behavior towards CHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

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

In making its decision to deny assistance, the CHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the CHA may, on a case-by-case basis, decide not to deny assistance.

3-III.D. Screening

Screening for Eligibility

The PHA is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

CHA Policy

The CHA will perform a criminal background check for every adult household member.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the CHA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

PHA is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

If the PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].
Screening for Suitability as a Tenant
[24 CFR 982.307]

The PHA has no liability or responsibility to the owner for the family’s behavior or suitability for tenancy. The PHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

CHA Policy

The CHA will not conduct additional screening to determine an applicant family’s suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner’s unit. The PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family’s history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the PHA to provide prospective owners with the family’s current and prior address (as shown in PHA records) and the name and address (if known) of the owner at the family’s current and prior addresses. HUD permits the PHA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

CHA Policy

The CHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. The CHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

3-III.E. Criteria for Deciding to Deny Assistance

Evidence
[24 CFR 982.553(c)]

CHA Policy

The CHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
Consideration of Circumstances
[24 CFR 982.552(c)(2)]

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated (see Section 3-III.B).

CHA Policy
The CHA, in determining whether or not to deny assistance under Section 3-III-C, will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, sexual violence, dating violence, or stalking
- The length of time since the violation occurred, the family’s recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
  - The CHA will require the applicant to submit evidence of the household member’s current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application
[24 CFR 982.552(c)(2)(ii)]

HUD permits PHA to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, to not reside in the unit.

CHA Policy
As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.

After admission to the program, the family must present evidence of the former family member’s current address upon CHA request.
Reasonable Accommodation

[24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA’s decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

**CHA Policy**

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the CHA will determine whether the behavior is related to the disability. If so, upon the family’s request, the CHA will determine whether alternative measures are appropriate as a reasonable accommodation. The CHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. Notice of Eligibility or Denial

If the family is eligible for assistance, the PHA will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554(a)]. See Chapter 16, for informal review policies and procedures.

**CHA Policy**

The family will be notified of a decision to deny assistance in writing within 10 calendar days of the determination.

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

**CHA Policy**

If based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the CHA will issue a notice of denial and provide a copy of the record to the applicant and to the subject of the record.

If an applicant has knowledge of previous criminal activity at time of application, they may submit information on mitigating circumstances to be considered during the normal eligibility process.

If applicant is denied, the applicant will be given ten (10) calendar days to request an informal review. Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B. Notice policies related to denying admission to applicants who may be victims of domestic violence, sexual violence, dating violence, or stalking are contained in Section 3-III.G.
3-III.G. Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking

[Pub.L. 109-162]

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(4)(A) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

- That an applicant or participant is or has been a victim of domestic violence, sexual violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

Definitions
As used in VAWA:

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship

- The term *stalking* means:
  - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
  - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
  - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

- The term *immediate family member* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
  - Any other person living in the household of that person and related to that person by blood and marriage.
Notification

CHA Policy
The CHA acknowledges that a victim of domestic violence, sexual violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial of admission under the CHA’s policies. Therefore, if the CHA makes a determination to deny admission to an applicant family, the CHA will include in its notice of denial:

- A statement of the protection against denial provided by VAWA
- A statement indicating the applicant has 14 calendar days from the date of the CHA letter to request an informal review of the CHA’s denial
- A statement that an applicant wishing to claim this protection must submit documentation to the CHA meeting the specifications below with the request for an informal review (see section 16-III.D)
- A description of the CHA confidentiality requirements

Documentation

Victim Documentation

CHA Policy
An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, sexual violence, dating violence, or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

- A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, sexual violence, dating violence, or stalking
- A police or court record documenting the domestic violence, sexual violence, dating violence, or stalking
- Documentation signed by a person who has assisted the victim in addressing domestic violence, sexual violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

Perpetrator Documentation

CHA Policy
If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit
Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attestate under penalty of perjury that it is their belief the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation related to rehabilitation or treatment received by the perpetrator.

**Time Frame for Submitting Documentation**

**CHA Policy**

The applicant must submit the required documentation with their request for an informal review (see section 16-III.D) or must request in writing within the 14 calendar day period that the CHA grant an extension of time for submitting the documentation. If the applicant so requests, the CHA will grant an extension of 10 calendar days and will postpone scheduling the applicant's informal review until after the CHA has received the documentation or the 10-calendar day extension period has elapsed. If, after reviewing the documentation provided by the applicant, the CHA determines that the family is eligible for assistance, no informal review will be scheduled, and the CHA will proceed with admission of the applicant family.

**PHA Confidentiality Requirements**

All information provided to the PHA regarding domestic violence, sexual violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. The PHA will maintain confidentiality of information received and shared, and keep all information provided confidential. The PHA will not enter information into any shared database nor provide information to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

**CHA Policy**

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the CHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.
Exhibit 3-1: Detailed Definitions Related to Disabilities

Person with Disabilities
[24 CFR 5.403]

The term person with disabilities means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
  - Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
  - In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) In General

  The term “developmental disability” means a severe, chronic disability of an individual that:

  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

  (ii) is manifested before the individual attains age 22;

  (iii) is likely to continue indefinitely;

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

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

  (B) Infants and Young Children

  An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.
• Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impeded his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

**Individual with Handicaps**

[24 CFR 8.3]

*Individual with handicaps* means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. The term does not include any individual who is an alcoholic or drug abuser and whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term 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, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

   (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

Exhibit 3-2: Definition of Institution of Higher Education

[20 U.S.C. 1001 and 1002]

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice

[Federal Register, April 10, 2006]

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

Definition of “Institution of Higher Education” From 20 U.S.C. 1001

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” also includes—

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

Definition of “Institution of Higher Education” from 20 U.S.C. 1002

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institute of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) A proprietary institution of higher education (as defined in subsection (b) of this section);

(B) A postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) In the case of a graduate medical school located outside the United States

(I) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and
(II) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(III) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution’s students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution’s courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;
(B) Enrolls 50 percent or more of the institution’s students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree, or an associate’s degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree or an associate’s degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution’s management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution’s owner, or the institution’s chief executive officer has been convicted of, or has pled no lo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification. The Secretary shall certify an institution’s qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.
(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;

(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and

(C) Has been in existence for at least 2 years.

(2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
Chapter 4—Application, Waiting List and Tenant Selection

Introduction

When a family wishes to receive Section 8 HCV assistance, the family must submit an application that provides the PHA with the information needed to determine the family’s eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the PHA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how the PHA’s waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the PHA will use to keep the waiting list current.

Part III: Selection for HCV Assistance. This part describes the policies that guide the PHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the PHA has the information needed to make a final eligibility determination.
Part I: The Application Process

4-I.A. Overview

This part describes the policies that guide the PHA’s efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the PHA’s obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. Applying for Assistance

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA. However, the PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA’s application for assistance completed by the family.

**CHA Policy**

The CHA uses a two step application process because of the long wait from the time a family applies for assistance and the time a family is selected from the waiting list.

Under the two-step application process, the CHA initially will require families to provide only the information needed to determine the family’s placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Except for HUD special admissions, targeted funding, project-based assistance and preference categories, the CHA will only accept applications when the waiting list is open. After the CHA announces the opening of the waiting list, families may apply for assistance under the HCV program. Families may obtain application forms from the CHA web site and other locations announced by the CHA when it opens the waiting list. The families may also request – by telephone or by mail – that an application form be sent to the family by mail.

Preliminary applications must be returned to the CHA by mail, by fax, or submitted through the CHA web site or any other site announced in the opening of the waiting list. Applications must be complete in order to be accepted by the CHA for processing.
4-I.C. Accessibility of the Application Process

**Elderly and Disabled Populations**

[24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the PHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the PHA’s policies related to providing reasonable accommodations for people with disabilities.

**Limited English Proficiency**

The PHA is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA’s policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. Placement on the Waiting List

With the exception of HUD special admissions, targeted funding, and the CHA’s preference categories, due to the size of PHA’s HCV program, families will be placed on the PHA’s waiting list using a lottery. Once each application has been randomly assigned a number, the applications will be placed on the waiting list in order of the assigned numbers and according to PHA preference(s).

The PHA will request a complete application with detailed information required to establish family eligibility and the level of assistance when the family is selected from the waiting list.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

**Part II: Managing the Waiting List**

4-II.A. Overview

The PHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how the PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA such as the CHA that administers more than one assisted housing program.
4-II.B. Organization of the Waiting List  
[24 CFR 982.204 and 205]

The PHA’s HCV waiting list must be organized in such a manner to allow the PHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list must contain the following information for each applicant listed:

- Applicant name;
- Family unit size;
- Assigned lottery number, if applicable;
- Date and time of application, if applicable;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the HCV program.

**CHA Policy**

The CHA maintains three waiting lists for applicants. One waiting list is maintained specifically for the tenant-based HCV program. A second waiting list is maintained for the property-based HCV program. The third waiting list is maintained for families that meet site selection preferences under the property-based supportive housing HCV program. (See Chapter 17).

The CHA also maintains a tenant-based HCV transfer list for participants in the property-based HCV program. Families who are eligible for the HCV transfer list are as follows:

1. Families living in units receiving property-based voucher assistance that have fulfilled their two year occupancy requirement under the project based voucher program and have not violated any family obligations under the HCV program.

2. Families living in property-based voucher supportive housing if the service provider and property manager: a) provide mutual written consent with the family and b) verifies the family has not violated any family obligations under the HCV program. Families that no longer require property-based voucher supportive housing have no occupancy time requirement prior to being placed on the transfer list.

The CHA will provide assistance to participants that are on the HCV transfer list before assisting families on the general tenant-based program waiting list.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, property-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs’ waiting lists are open, and 2) the family is qualified for the other programs.
A family’s decision to apply for, receive, or refuse other housing assistance must not affect the family’s placement on the HCV waiting list, or any preferences for which the family may qualify.

CHA Policy
The CHA will not merge the HCV waiting list with the waiting list for any other program the CHA operates. However, if a family refuses property-based voucher program assistance, the family will not lose position on the waiting list for tenant-based voucher program assistance. Similarly, if a family refuses tenant based voucher program assistance, the family will not lose its position on the waiting list for property-based voucher program assistance.

4-II.C. Opening and Closing the Waiting List
[24 CFR 982.206]

Closing the Waiting List
PHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

CHA Policy
The CHA closes the waiting list when it is anticipated that there are sufficient waiting list applicants that can be served within a time period determined by the CHA.

The CHA may keep the list open for certain categories of families that meet particular preferences. If there are insufficient families on the waiting list eligible to make use of special admissions, targeted funding, property-based vouchers, and demonstration programs established by the CHA, the CHA may accept applications limited to eligible families to ensure the appropriate use of these vouchers.

Re-opening the Waiting List
If the waiting list has been closed, it cannot be reopened until the PHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

CHA Policy
The CHA will announce the reopening of the waiting list at least 10 calendar days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The CHA will give public notice by publishing the relevant information in suitable media outlets, including electronic media, to provide public announcement to the diverse Chicago community.
4-II.D. Family Outreach
[HCV GB, pp. 4-2 to 4-4]

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the PHA to serve a specified percentage of very low income families (see Chapter 4, Part III), the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

The PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

The PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

CHA Policy
The CHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the CHA’s jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. Reporting Changes in Family Circumstances

CHA Policy
While the family is on the waiting list, the family must inform the CHA within a reasonable time of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing. All applicants have the responsibility to maintain the accuracy of their personal information provided on their application. Failure to do so may result in the CHA removing the family from the waiting list if the family does not respond to notices such as those for selection, purging, and updating the waiting list.
4-II.F. Updating the Waiting List
[24 CFR 982.204]

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

Purging the Waiting List

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates because of the family member’s disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

CHA Policy

The waiting list will be updated as necessary to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the CHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the CHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant’s name being removed from the waiting list.

The family’s response must be in writing and may be delivered by mail, or by fax. Responses should be postmarked or received by the CHA not later than 15 calendar days from the date of the CHA letter.

If the family fails to respond within 15 calendar days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If a family is removed from the waiting list for failure to respond, the Admissions Manager may reinstate the family if the manager determines the lack of response was due to a CHA error, or to circumstances beyond the family’s control.

If a family failed to respond to the CHA’s request for information or updates because of the family member’s disability, the family must show that there is a nexus between the family member’s disability and the failure to respond to be reinstated to their former position on the waiting list.
Removal from the Waiting List

CHA Policy

If at any time an applicant family is on the waiting list and the CHA determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because the CHA has determined the family is not eligible for assistance, a written notice will be sent to the family's address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the CHA’s decision and the timeframe in which the request for an informal review must be received. (see Chapter 16) [24 CFR 982.201(f)].

Part III: Selection for HCV Assistance

4-III.A. Overview

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families receive assistance from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences for which the family qualifies. The source of HCV funding also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA’s selection policies [24 CFR 982.204(b) and 982.207(e)].

4-III.B. Selection and HCV Funding Sources

Special Admissions

[24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a family affected by an owner's decision to opt-out of a project based Section 8 contract and families affected by an owner’s decision to prepay a HUD insured mortgage). In these cases, the PHA may admit families that are not on the waiting list, or without considering the family’s position on the waiting list. The PHA must maintain records showing that such families were admitted with special program funding.

CHA Policy

In the following cases, the CHA may add or move the family to the top of the waiting list in order to select in accordance with Special Admissions requirements.

Families covered under the CHA Relocation Rights Contract (RRC) whose right of return or return preference to final replacement housing has not been satisfied and were relocated as a result of rehabilitation, demolition, or disposition activities as described in the RRC. In this transition, a family can only add family members by birth, adoption, and court order. The voucher size (i.e., number of bedrooms) is based on the number of family members identified on the public housing lease. Exceptions will be approved on a case-by-case basis.
Families that are displaced rehabilitation (for ADA purposes) of the public housing unit in which they are living will receive a voucher to allow the family to relocate. In this transition, a family can only add family members by birth, adoption, and court order. The voucher size (i.e., number of bedrooms) is based on the number of family members identified on the public housing lease. Exceptions will be approved on a case-by-case basis.

Families affected by an owner's decision to opt-out of a project based Section 8 contract will receive a voucher to allow the family to relocate to an affordable unit. The voucher size (i.e., number of bedrooms) is based on the number of family members identified on the assisted lease for the affected project.

Families affected by an owner's decision to prepay or upon final payment of a HUD insured mortgage will receive a voucher to allow the family to relocate to an affordable unit. The voucher size (i.e., number of bedrooms) is based on the number of family members identified on the assisted lease for the affected project.

**Special Funding For the Families Receiving Assistance under the Section 8 Moderate Rehabilitation Program**

**CHA Policy**

The CHA may convert all or part of a Section 8 Moderate Rehabilitation development to property-based vouchers. Eligible families residing in the units assisted under the Section 8 Moderate Rehabilitation program at the time of conversion will be offered assistance under HCV property-based voucher program.

The CHA will provide tenant-based vouchers to eligible families residing in units assisted under the Section 8 Moderate Rehabilitation program at the time that the Section 8 Moderate Rehabilitation HAP contract expires but is not renewed.

In these cases, the CHA may add or move the family to the top of the waiting list in order to select in accordance with Special Admissions requirements.

**Targeted Funding**

[24 CFR 982.204(e)]

HUD may award PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

**CHA Policy**

The CHA administers the following types of targeted funding:

- HUD-Veterans Affairs Supportive Housing (HUD-VASH) program—this special allocation of vouchers is not subject to selection from the CHA waiting list and selections for participation are based on referrals to the CHA by the participating Veterans Affairs medical center.

- Family Unification Program
  - Families eligible for participation are selected from the HCV program waiting list and must be approved as eligible by the Department of Children and Family Services (DCFS).
Chicago Housing Authority Housing Choice Voucher Program
Administrative Plan

Mainstream vouchers for persons with disabilities.
- Vouchers with a one year term. The CHA will make the one year vouchers available only to non elderly families with a disabled person. The CHA will select non-elderly families with a disabled person from the HCV program waiting list.
- The CHA will make the five year vouchers available to elderly families and non elderly families with a disabled person. The CHA will select non-elderly families with a disabled person from the HCV program waiting list.

Non-Elderly disabled vouchers.
- The CHA will make these vouchers available to non-elderly disabled families (families that do not meet the definition of an elderly family, whose head, spouse or sole member is a person with disabilities). The CHA will give the first priority to families on the 2005 CHA Senior Housing Waiting List who meet the definition for a non-elderly disabled family at the time of selection. If there are not sufficient families on the 2005 CHA Senior Housing Waiting List, CHA will select non-elderly disabled families from the HCV program waiting list.

Other programs designated under any new HUD awarded funding
- The CHA will administer such programs in accordance with the HUD requirements.

The CHA will use the funds (including any renewal of such funds and new allocations of funds) that are provided by HUD only for the specific purposes identified above. In addition, when any targeted vouchers are returned by families, the CHA will only use that voucher for the same purpose.

Regular HCV Funding
Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

CHA Policy
The CHA will use its regular HCV funding to assist eligible families on its waiting list. However, in partnership with local agencies, the CHA may set aside a small number of its regular voucher funding for special demonstration programs that meet the City of Chicago's housing needs, provide supportive services and are consistent with the Moving to Work demonstration program goals. The CHA shall not be the sole source of financing for these special demonstration programs.

The CHA under its MTW Program administers a set-aside of tenant-based vouchers for use in a demonstration program to expand affordable housing choices within housing opportunity areas in the City of Chicago. In order to access housing in these areas, the CHA may approve special exception payment standards on a unit-by-unit basis up to 300 percent of the HUD published FMRs for the City of Chicago. The CHA will cap the rent to owner based on the comparable rents for similar unassisted units in the City.

The qualifications for this exception payment are based on the following factors:

- Families must select housing in an opportunity area and/or;
- Families must be Mobility Program participants moving into an opportunity area and/or;
- Families must be Public Housing Relocatees moving into an opportunity area and/or;
A reasonable accommodation was approved by CHA and;
- Families are not allowed to use exception payment standards for homeownership.

4-III.C. Selection Method

PHA must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [24 CFR 982.202(d)].

Local Preferences
[24 CFR 982.207; HCV p. 4-16]

The PHA is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

CHA Policy

The CHA will offer a selection preference for the tenant-based HCV program to any:

- Family that is a victim of a federally declared natural disaster affecting the city of Chicago;
- Family in a CHA public housing development that is participating in the CHA’s Victim Assistance Program;
- Family that is an active participant in a Witness Protection Program;
- Family living in a CHA public housing unit which must be rehabilitated to meet ADA/504 requirements and for whom an alternate CHA public housing units is not available;
- Family that has been terminated from the CHA’s HCV program due to insufficient program funding;
- Family that includes a person with disabilities who has Medicaid Home and Community Based Services Waivers under Section 1515 (c) of the Social Security Act who are referred from an agency approved by the State. CHA may set aside up to 3% of available non-targeted funding for this population;
- Over-housed or under-housed family living in a Section 8 Moderate Rehabilitation project administered by the CHA for which no appropriate size unit is available in the same project that is already under a HAP contract; and
- Family that was an applicant family on the 2005 CHA 2005 Senior Designated Housing Waiting List at the time the CHA designated the projects as “Senior Only”
- Families referred to the HCV Program through the determined process from the City of Chicago, State of Illinois and others including the Chicago Continuum of Care.
- Families who are at risk of homelessness without subsidy who currently participate in a transitional housing program (permanent housing with short term supports) and who meet eligibility criteria of the HCVP.
Families where adult household members work at least 20 hours per week. This requirement may be met by combination of work and no more than 10 hours per week in volunteer activities or enrollment in an accredited education, employment and job training programs or be a person with disabilities or over 62 years.

The CHA maintains separate preferences for the property-based HCV program (See Chapter 17).

Income Targeting Requirement

[24 CFR 982.201(b)(2)]

Under the Move to Work program HUD requires that very low-income families make up at least 75% of the families admitted to the HCV program during the PHA’s fiscal year. Very low income families are those with annual incomes at or below 50% of the area median income.

Low income families admitted to the program that are “continuously assisted” under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

CHA Policy

The CHA will monitor progress in meeting the very low income requirement throughout the fiscal year. The CHA will monitor the families admitted to the HCV program based on the number of families that entered into a lease within the CHA’s fiscal year. Very low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

Order of Selection

The PHA system of preferences may select families either according to the date and time of application, or by a random selection process [24 CFR 982.207(c)]. When selecting families from the waiting list the PHA is required to use targeted funding to assist only those families who meet the specified criteria, and the PHA is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

CHA Policy

CHA will select families in order of preference as follows:

(1) Families that are victims of a federally declared natural disaster affecting the city of Chicago;

(2) Families that are:
   – Residents in the CHA public housing developments that are participating in the CHA’s Victim Assistance Program; and
   – Families that are active participants in a Witness Protection Program;

(3) Families living in a CHA administered housing unit which must be rehabilitated to meet ADA/504 requirements and for who alternate CHA administered housing units are not available;

(4) Families that have been terminated from the CHA’s HCV program due to insufficient program funding;
(5) Families that include a person with disabilities who has Medicaid Home and Community Based Services Waivers under Section 1515 (c) of the Social Security Act;

(6) Over-housed or under-housed families living in a Section 8 Moderate Rehabilitation project administered by the CHA for which no appropriate size unit is available in the same project that is already under a HAP contract;

(7) Families that were applicant families on the 2005 CHA 2005 Senior Designated Housing Waiting List at the time the CHA designated the projects as “Senior Only”; or

(8) Families that qualify for the CHA HCV working preference at the time that they are selected from the Waiting List. To meet this preference, adult household members must:
   - Work at least 20 hours per week. This requirement may be met by combination of work and no more than 10 hours per week in volunteer activities or enrollment in an accredited education, employment and job training programs; or
   - Be a person with disabilities or over 62 years.

Families that qualify for the above preferences will be selected within each preference category in order of the date and time of the family’s application for assistance.

Families that do not qualify for any of the above preferences will be selected from the waiting list after all qualified preference families have been provided assistance. The non-preference eligible families will be selected in numerical order based on the number that was assigned to each application by lottery, at the time the applicants were placed on the waiting list and any preferences for which the families qualify.

Families that qualify for a specified category of program funding (targeted funding or special CHA demonstrations) may be selected from the waiting list ahead of higher placed families that do not qualify for the targeted or demonstration funding. However, within any targeted or demonstration funding category, applicants will be selected in numerical order based on the number that was assigned to each application by lottery, at the time the applicants were placed on the waiting list.
4-III.D. Notification of Selection

When a family has been selected from the waiting list, the PHA must notify the family.

**CHA Policy**

The CHA will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
- Other documents and information that should be brought to the interview

If a notification letter is returned to the CHA with no forwarding address, the family will be removed from the waiting list.

4-III.E. The Application Interview

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a private interview [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

**CHA Policy**

Families selected from the waiting list are required to participate in an eligibility interview.

All adult family members are required to attend the interview.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

The family must provide the information necessary to establish the family’s eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the CHA will provide the family with a written list of items that must be submitted.
Any required documents or information that the family is unable to provide at the interview must be provided within 10 calendar days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions granted by the CHA), the family will be sent a notice of denial (See Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the CHA will provide translation services in accordance with the CHA’s LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the CHA in advance of the interview to schedule a new appointment. If a family does not attend a scheduled interview, the CHA will send a second notification letter with a new interview appointment time. Applicants who fail to attend the rescheduled interview will be denied assistance based on the family’s failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. Completing the Application Process

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted admission, or selection preference that affected the order in which the family was selected from the waiting list.

CHA Policy

If the CHA determines that the family is ineligible, the CHA will send written notification of the ineligibility determination within 10 calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding), the family will be returned to its original position on the waiting list. The CHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If the CHA determines that the family is eligible to receive assistance, the CHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.
Chapter 5—Briefings and Voucher Issuance

Introduction

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size for which the family qualifies based on the PHA's subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

This chapter describes HUD regulations and the PHA policies related to these topics in two parts:

Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.

Part II: Subsidy Standards and Voucher Issuance. This part discusses the PHA's standards for determining how many bedrooms for which a family of a given composition qualifies, that in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

Part I: Briefings and Family Obligations

5-I.A. Overview

HUD regulations require the PHA to conduct mandatory briefings for applicant families. The briefing provides a broad description of owner and family responsibilities, explains the PHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

5-I.B. Briefing

[24 CFR 982.301]

The PHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.
CHA Policy
Briefings will be conducted in group meetings.

Generally, all adult family members are required to attend the briefing. If any adult member is unable to attend, the PHA may waive this requirement as long as the head, spouse or co-head attends the briefing.

Families that attend group briefings and still need individual assistance will be referred to an appropriate CHA staff person.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the CHA will provide translation services in accordance with the CHA’s LEP plan (See Chapter 2).

Notification and Attendance
CHA Policy
Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, the CHA will mail a second attempt to the same address, if the second notice is returned by the post office with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The CHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without CHA approval, will be denied assistance (see Chapter 3).

Oral Briefing
[24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA’s jurisdiction;
- For families eligible under portability, an explanation of portability. The PHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and

CHA Policy
When the CHA-owned units are available for lease, the CHA will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a CHA-owned unit.
Briefing Packet
[24 CFR 982.301(b)]

Documents and information provided in the briefing packet must include the following:

- The term of the voucher, and the PHA’s policies on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled Protect Your Family from Lead in Your Home.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- Information on a participants rights under VAWA, including the right to confidentiality and the exceptions.
- Information on how to access a web based list of owners/property managers willing to lease to assisted families and other resources to assist with housing search.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- The PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

If a PHA, is located in a metropolitan FMR area, the following additional information will be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)].

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- Information about the characteristics of these areas including job opportunities, schools, transportation and other services.
• An explanation of how portability works, including a list of portability contact persons for neighboring PHAs including names, addresses, and telephone numbers.

Additional Items to be Included in the Briefing Packet
In addition to items required by the regulations, the PHA may include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7].

CHA Policy
The CHA will provide the following additional materials in the briefing packet:

• When the CHA-owned units are available for lease, a written statement that the family has the right to select any eligible unit available for lease, and is not obligated to choose a CHA-owned unit.
• Information on how to fill out and file a housing discrimination complaint form.
• The publication Things You Should Know (HUD-1140-OIG) that explains the types of actions a family must avoid and the penalties for program abuse.

5-I.C. Family Obligations
Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family’s unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required by Family Obligations

CHA Policy
Unless otherwise noted below, when family obligations require the family to respond to a request or notify the CHA of a change, notifying the CHA of the request or change within 30 calendar days is considered prompt notice.

When a family is required to provide notice to the CHA, the notice must be in writing.

Family Obligations
[24 CFR 982.551]

When the family’s unit is approved and the Housing Assistance Payments contract is executed, the family must follow the rules listed below in order to continue participating in the Chicago Housing Authority’s Housing Choice Voucher Program. Families that do not abide by these obligations will be terminated from the program.

A. The Family (Including Each Family Member) Must:

1. Supply any information that the CHA or HUD determines to be necessary including evidence of citizenship or eligible immigration status, and information for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

2. Disclose and verify social security numbers.

3. Sign and submit consent forms for obtaining information as required by the CHA.
4. Attend informational briefings including but not limited to those scheduled to discuss violations of family obligations and allegations of criminal activity in the family’s unit, building or neighborhood.

5. Supply any information requested by the CHA to verify that the family is living in the unit or information related to family absence from the unit.

6. Promptly notify the CHA in writing when the family is away from the unit for more than 30 days.

7. Notify the CHA and the owner in writing at least 30 days before moving out of the unit or terminating the lease.

8. Use the assisted unit solely for residence by the family that is listed on the HAP Contract and Lease. The unit must be the family’s only residence.

9. Promptly notify the CHA in writing of the birth, adoption, or court-awarded custody of a child.

10. Request the CHA and the owner’s written approval to add any other family member as an occupant of the unit.

11. Request and obtain the CHA approval before adding a live-in aide to the household.

12. Promptly notify the CHA in writing if any family member no longer lives in the unit.

13. Pay utility bills and provide and maintain any stove, microwave, and/or refrigerator that the owner is not required to provide under the lease.

14. Allow the CHA to inspect the unit at reasonable times and after reasonable notice.

15. Give the CHA a copy of any owner eviction notice.

B. Any information the family supplies must be true and complete.

C. The Family (Including Each Family Member) Must Not:

1. Own or have any interest in the unit (other than in a cooperative, or the CHA Homeownership Program, Choose to Own).

2. Receive housing choice voucher program housing assistance while residing in a unit owned by a spouse, parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the CHA has determined (and has notified the owner and the family in writing of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

3. Receive housing choice voucher program housing assistance while receiving another housing subsidy, for the same unit or a different unit under any other Federal, State or local housing assistance program.

4. Sublease or let the unit or assign the lease or transfer the unit.
5. Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises.

6. Commit any serious or repeated violation of the lease.

7. Engage in or allow guests to engage in any behavior that disturbs the peaceful and quiet enjoyment by others of the premises and the neighborhood.

8. Threaten or engage in or allow guests to threaten or engage in abusive or violent behavior toward CHA personnel or its representatives.

9. Commit fraud, bribery or any other corrupt or criminal act in connection with the program.

10. Engage in or allow guests to 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.

11. Possess or use illegal possession and use of a firearm or aggravated assault weapon in violation of federal, state or local criminal or civil laws;

12. Engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.

13. Be a registered sex offender in any state or territory of the United States.

14. Be convicted of a drug related crime for the manufacture or production of methamphetamine on the premises of federally assisted housing.

**CHA Policy**

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

**CHA Policy**

The CHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner’s notice to evict.

**CHA Policy**

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the CHA at the same time the owner is notified.

**CHA Policy**

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
5-II.A. Overview
The PHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The PHA also must establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of that term.

5-II.B. Determining Family Unit (Voucher) Size
[24 CFR 982.402]
For each family, the PHA determines the appropriate number of bedrooms under the PHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the PHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.
In accordance to PIH Notice 2010-26, a live-in-aide should not be required to share a bedroom with another member of the household and the live-in-aide and his/her family members are restricted to (1) one bedroom.

**CHA Policy**

The CHA will assign one (1) bedroom for the head of household and spouse or co-head and an additional bedroom for each two (2) persons within the household. The live-in aide and his/her family members will not be classified as family members to the Head of Household.

### 5-II.C. Exceptions to Subsidy Standards

In determining family unit size for a particular family, the PHA may grant an exception to its established subsidy standards if the PHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)]. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member’s disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom unit [24 CFR 982.402(b)(8)].

**CHA Policy**

The CHA will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability–related request for accommodation is readily apparent or otherwise known. The family’s continued need for an additional bedroom due to special medical equipment must be re-verified at regular reexamination.

The CHA will notify the family of its determination within ten (10) calendar days of receiving the family’s request. If a participant family’s request is denied, the notice will inform the family of their right to request an informal hearing.

### 5-II.D. Voucher Issuance

[24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the PHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.
The voucher is the family’s authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the PHA has determined the family to be eligible for the program, and that the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the PHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the PHA’s housing choice voucher program [Voucher, form HUD-52646].

A voucher can be issued to an applicant family only after the PHA has determined that the family is eligible for the program based on information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

**CHA Policy**

The CHA will determine that a family is eligible for the program based on information that the CHA received within the 120 day period prior to issuance of the voucher. Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

**CHA Policy**

Prior to issuing any vouchers, the CHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

If the PHA determines that there is insufficient funding after a voucher has been issued, the PHA may rescind the voucher and place the affected family back on the waiting list in its original position.

### 5-II.E. Voucher Term, Extensions, and Suspensions

**Voucher Term**

[24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

**CHA Policy**

The initial voucher term will be 90 calendar days.

The family must submit a Request for Tenancy Approval within the 90-calendar day period unless the CHA grants an extension.

In the case of public housing families that are considered temporary relocatees under the CHA Leaseholder Housing Choice and Relocation Rights Contract, the initial term of the voucher will be six months.
Extensions of Voucher Term
[24 CFR 982.303(b)]

The PHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. Discretionary policies related to extension and expiration of search time must be described in the PHA’s administrative plan [24 CFR 982.54].

The PHA must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of the PHA’s decision to approve or deny an extension. The PHA’s decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

CHA Policy
The CHA will approve an extension in one or more increments not to exceed 60 calendar days upon written request from the family only in the following circumstances:

- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family’s control, as determined by the CHA. Following is a list of extenuating circumstances that the CHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
  - Serious illness or death in the family
  - Obstacles due to employment
  - Whether the family has already submitted requests for tenancy approval that were not approved by the CHA
  - Whether family size or other special requirements make finding a unit difficult
  - Other similar circumstances identified by the CHA

Any request for an additional extension must include the reason(s) an additional extension is necessary. The CHA may require the family to provide documentation to support the request.

In the case of public housing families that are considered temporary relocatees under the CHA Leaseholder Housing Choice and Relocation Rights Contract, the CHA may extend the voucher term for up to an additional six months but the total voucher term, including any extensions, may not exceed one year.

All requests for extensions to the voucher term must be made in writing and submitted to the CHA prior to the expiration date of the voucher (or extended term of the voucher). The CHA will decide whether to approve or deny an extension request within 10 calendar days of the date the request is received, and will immediately provide the family written notice of its decision.
Suspensions of Voucher Term
[24 CFR 982.303(c)]

The PHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

CHA Policy

When a Request for Tenancy Approval and proposed lease is received by the CHA, the term of the voucher will not be suspended while the CHA processes the request.

If an applicant’s submits a RTA before the expiration of the voucher term the CHA will process the RTA even though the voucher term has expired. If an RTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by the CHA the voucher term expires.

Expiration of Voucher Term

Once a family’s housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

CHA Policy

If an applicant’s voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), the family is no longer eligible to search for housing. The family may reapply for assistance when the waiting list is reopened.

If an RTA was submitted prior to the expiration date of the voucher and is subsequently disapproved by the CHA (after the voucher term has expired), the family may reapply for assistance when the waiting list is reopened.
Chapter 6—Income and Subsidy Determinations
[24.CFR.Part 5, Subparts E and F, 24.CFR.982]

Introduction

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

- **Part I: Annual Income.** HUD regulations specify the sources of income to include and exclude to arrive at a family’s annual income. These requirements and PHA policies for calculating annual income are found in Part I.

- **Part II: Adjusted Income.** Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.

- **Part III: Calculating Family Share and PHA Subsidy.** This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining the PHA subsidy and required family payment.

**Part I: Annual Income**

6-I.A. Overview

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

5.609 Annual income.

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

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

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

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

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.
In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

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

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

6-I.B. Household Composition and Income

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

<table>
<thead>
<tr>
<th>Summary of Income Included and Excluded by Person</th>
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<tbody>
<tr>
<td><strong>Live-in aides</strong></td>
</tr>
<tr>
<td><strong>Foster child or foster adult</strong></td>
</tr>
<tr>
<td><strong>Head, spouse, or co-head</strong>&lt;br&gt;<strong>Other adult family members</strong></td>
</tr>
<tr>
<td><strong>Children under 18 years of age</strong></td>
</tr>
<tr>
<td><strong>Full-time students 18 years of age or older (not head, spouse, or co-head)</strong></td>
</tr>
</tbody>
</table>
**Temporarily Absent Family Members**  
The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

**CHA Policy**  
Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

**Absent Students**

**CHA Policy**  
When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the CHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

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

**Absent Head, Spouse, or Co-head**

**CHA Policy**  
An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

**Family Members Permanently Confined for Medical Reasons**

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

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

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

CHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time or are otherwise designated by a Joint Parenting Agreement to the parent who maintains primary residence of the child or children. Individuals with joint custody arrangements entered into in a state other than Illinois may be required to provide documentation of joint custody and/or evidence of the primary residence of a child or the children.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody and/or primary residence as set forth in a judgment or court decision at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the CHA will make the determination based on available documents such as court orders, school enrollment records, benefit/subsidy records, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

CHA Policy

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

1. If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

2. If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 calendar days. After the 90 calendar days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker’s role is temporary. In such cases the CHA will extend the caretaker’s status as an eligible visitor.

3. At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker providing the caretaker passes all appropriate screening.

4. During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. Anticipating Annual Income

The PHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or regular reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.
Basis of Annual Income Projection
The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

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

The PHA is required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

Failure to use the EIV system in its entirety may result in the imposition of sanctions, the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculations, or both [24 CFR 5.233(b)].

HUD allows the PHA to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

CHA Policy
The CHA will use HUD’s EIV system in its entirety. When EIV is obtained and the family does not dispute the EIV employer data, the CHA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, the CHA will make every effort to obtain at least two consecutive pay stubs dated within the last 60 days.

The CHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If the CHA determines additional information is needed.

In such cases, the CHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the CHA annualized projected income.

When the CHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the CHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.
Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the CHA to show why the historic pattern does not represent the family’s anticipated income.

**Known Changes in Income**

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

**Example:** An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA’s policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided documents are used to anticipate annual income, they will be dated within the last 60 calendar days of the reexamination interview date.

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

**Projecting Income**

In HUD’s EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

**6-I.D. Earned Income**

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

**Wages and Related Compensation**

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

**CHA Policy**

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

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

Types of Earned Income Not Counted in Annual Income
Temporary, Nonrecurring, or Sporadic Income

[24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income.

CHA Policy
Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children’s Earnings

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

Certain Earned Income of Full-Time Students

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

Income of a Live-in Aide

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

Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

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

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the PHA 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 PHA’s governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

CHA Policy

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

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

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

End of participation in a training program must be reported in accordance with the CHA’s interim reporting requirements.
**HUD-Funded Training Programs**

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

**CHA Policy**

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

**Earned Income Tax Credit**

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

**Earned Income Disallowance**

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

**6-I.E. Earned Income Disallowance for Persons with Disabilities**

[24 CFR 5.617]

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

**Eligibility**

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

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].

- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.
Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member’s current income with his or her “prior income.”

CHA Policy
The CHA defines prior income, or prequalifying income, as the family member’s last certified income prior to qualifying for the EID.

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

Initial 12-Month Exclusion

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

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

Second 12-Month Exclusion and Phase-In

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

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

6-I.F. Business Income
[24 CFR 5.609(b)(2)]

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

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

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

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

**CHA Policy**

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

**Capital Indebtedness**

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

**CHA Policy**

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

**Negative Business Income**

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

**Co-owned Businesses**

**CHA Policy**

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

**6-I.G. Assets**

[24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

**Overview**

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. HUD requires that the income from various types of assets is included.

**CHA Policy**

Only for determining initial eligibility, the CHA under the terms of its MTW Agreement will consider assets or income earned from assets or withdrawal of cash or liquidation of assets under the HCV program. This CHA will not consider assets or income earned from assets for program participants at the time of reexamination.

**6-I.H. Periodic Payments**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.
Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].

- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)].

CHA Policy

When a delayed-start payment is received and reported during the period in which the CHA is processing a regular reexamination, the CHA will adjust the family share and the CHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the CHA.

Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

Note: A social security overpayment can be withheld from an SSI underpayment due to the beneficiary.

CHA Policy

In the case of a Social Security Administration overpayment/recoupment, the CHA will calculate annual income using the reduced amount. Depending on the length of the withholding period, the calculation will either remain effective until the next reexamination of income, or the CHA will recalculate annual income after the withholding period ends using the full benefit amount.
Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]

  CHA Policy
  The CHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]

- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

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

6-I.J. Welfare Assistance

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

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

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

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

Imputed Income

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

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

Offsets

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

6-I.K. Periodic and Determinable Allowances

[24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

CHA Policy

The CHA will count court-awarded amounts for alimony and child support unless the CHA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].
CHA Policy

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

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

6-I.L. Student Financial Assistance

[24 CFR 5.609(b)(9)]

In 2005, Congress passed a law (for section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance Included in Annual Income

[24 CFR 5.609(b)(9) and FR 4/10/06]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the property-based certificate program, the property-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age OR they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of dependent child, institution of higher education, and parents in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- **Assistance from private sources** means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- **Tuition** will have the meaning given this term by the institution of higher education in which the student is enrolled.
Student Financial Assistance Excluded from Annual Income
[24 CFR 5.609(c)(6)]

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does not meet the 1965 HEA definition of institution of higher education
- Students who are over 23 AND have at least one dependent child, as defined in Section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6-I.M. Additional Exclusions from Annual Income

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

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

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

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

(h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

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

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

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

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

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

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

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

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

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

(r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
Part II: Adjusted Income

6-II.A. Introduction

Overview
HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family’s adjusted income. Mandatory deductions are found in 24 CFR 5.611.

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

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

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.
Anticipating Expenses

CHA Policy

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

In the case of medical expenses, the CHA will use receipts from the last 12 months as anticipated future expenses (e.g., printout of prescription expenses from a drug store, and doctor’s statement of costs for medical treatment and payments). If a family has an accumulated debt for medical or disability assistance expenses, the CHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The CHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. Dependent Deduction

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

6-II.C. Elderly or Disabled Family Deduction

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

6-II.D. Medical Expenses Deduction

[24 CFR 5.611(a)(3)(i)]

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

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

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “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.”

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

<table>
<thead>
<tr>
<th>Summary of Allowable Medical Expenses from IRS Publication 502</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Services of medical professionals</strong></td>
</tr>
<tr>
<td>Surgery and medical procedures that are necessary, legal, non cosmetic</td>
</tr>
<tr>
<td>Services of medical facilities</td>
</tr>
<tr>
<td>Hospitalization, long-term care, and in-home nursing services</td>
</tr>
<tr>
<td>Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor</td>
</tr>
<tr>
<td>Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)</td>
</tr>
<tr>
<td>Substance abuse treatment programs</td>
</tr>
<tr>
<td>Psychiatric treatment</td>
</tr>
<tr>
<td>Ambulance services and some costs of transportation related to medical expenses</td>
</tr>
<tr>
<td>The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)</td>
</tr>
<tr>
<td>Cost and continuing care of necessary service animals</td>
</tr>
<tr>
<td>Medical insurance premiums or the cost of a health maintenance organization (HMO)</td>
</tr>
</tbody>
</table>

**Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

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

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the CHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.
6-II.E. Disability Assistance Expenses Deduction
[24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

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

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

**CHA Policy**

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

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

**Eligible Disability Expenses**

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

HUD advises PHA to further define and describe auxiliary apparatus [VG, p. 30].

**Eligible Auxiliary Apparatus**

**CHA Policy**

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.
Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

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

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

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

Payments to Family Members

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

Necessary and Reasonable Expenses

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

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the CHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.
6-II.F. Child Care Expense Deduction
HUD defines child care expenses at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

Clarifying the Meaning of Child for This Deduction
Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family’s household, are included when determining the family’s child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction
Determining Who Is Enabled to Pursue an Eligible Activity

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

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

Seeking Work

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

Furthering Education

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

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

Earned Income Limit on Child Care Expense Deduction
When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person’s earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

CHA Policy
When the child care expense being claimed is to enable a family member to work, only one family member’s income will be considered for a given period of time. When more than one family member works during a given period, the CHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses
The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].
Allowable Child Care Activities

CHA Policy

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

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

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the CHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

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

CHA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the CHA will use the schedule of child care costs from the Illinois Department of Human Services, published yearly as reasonable payment for home child care providers in Cook County. Families may present, and the CHA will consider, justification for costs that exceed typical costs in the area but will require additional documentation.
Part III: Calculating Family Share and PHA Subsidy

6-III.A. Overview of Rent and Subsidy Calculations

TTP Formula
[24 CFR 5.628]

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

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

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

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

Welfare Rent
[24 CFR 5.628]

CHA Policy
Welfare rent does not apply in this locality.

Minimum Rent
[24 CFR 5.630]

CHA Policy
The minimum rent for this locality is $75.

Family Share

CHA Policy
The family’s share of the rent is 30 percent of its adjusted gross income. Under its MTW Agreement, the CHA will pay an additional subsidy that is equal to the difference between the gross rent for the unit and the exception payment standard approved for the unit. Similarly, at any subsequent regular reexamination: the gross rent exceeds the CHA’s applicable payment standard (1) the family will pay no more than the TTP (30% of their income) and (2) the PHA will pay an additional subsidy that is equal to the difference between the gross rent for the unit and the exception payment standard approved for the unit.
PHA Subsidy
[24 CFR 982.505(b)]

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

Utility Reimbursement
[24 CFR 982.514(b)]

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

CHA Policy
The CHA will make utility reimbursements to the family.

6-III.B. Financial Hardships Affecting Minimum Rent
[24 Cfr 5.630]

Overview
If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

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

HUD-Defined Financial Hardship
Financial hardship includes the following situations:

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

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

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

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

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

(4) A death has occurred in the family.

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

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

   **CHA Policy**
   The CHA has not established any additional hardship criteria.

**Implementation of Hardship Exemption**

**Determination of Hardship**

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family’s request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

   **CHA Policy**
   The CHA defines temporary hardship as a hardship expected to last 90 calendar days or less. Long-term hardship is defined as a hardship expected to last more than 90 calendar days.

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

Assume the PHA has established a minimum rent of $35.

<table>
<thead>
<tr>
<th>Family Share – No Hardship</th>
<th>Family Share – With Hardship</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0</td>
<td>30% of monthly adjusted income</td>
</tr>
<tr>
<td>$15</td>
<td>10% of monthly gross income</td>
</tr>
<tr>
<td>N/A</td>
<td>Welfare rent</td>
</tr>
<tr>
<td>$35</td>
<td>Minimum rent</td>
</tr>
</tbody>
</table>

Minimum rent applies.  
TTP = $35

CHA Policy

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

The CHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

CHA Policy

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

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

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

**CHA Policy**

The CHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

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

**CHA Policy**

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

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

6-III.C. Applying Payment Standards
[24 CFR 982.505]

**Overview**

The PHA’s schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA’s payment standards. The establishment and revision of the PHA’s payment standard schedule are covered in Chapter 16.

*Payment standard* is defined as “the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)” [24 CFR 982.4(b)].
The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA’s subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

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

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

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

Changes in Payment Standards
When the PHA revises its payment standards during the term of the HAP contract for a family’s unit, it will apply the new payment standards in accordance with HUD regulations.

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

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

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

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

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

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

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

Reasonable Accommodation

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

6-III.D. Applying Utility Allowances

[24 CFR 982.517]

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using the PHA subsidy standards. See Chapter 5 for information on the PHA’s subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

HCV program regulations require PHAs to approve a utility allowance amount higher than shown on the PHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

CHA Policy

Revised utility allowances will be applied to a family’s rent and subsidy calculations at the first regular reexamination that is effective after the allowance is adopted.

6-III.E. Prorated Assistance for Mixed Families

[24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.
Exhibit 6-1: Annual Income Inclusions
24 CFR 5.609

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

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

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

(3) Which are not specifically excluded in paragraph (c) of this section.

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

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

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

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

      (A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and

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

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1 Text of 45 CFR 260.31 follows.
(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

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

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

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

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

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, “financial assistance” does not include loan proceeds for the purpose of determining income.

HHS Definition of Assistance

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term “assistance” mean?

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

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

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

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

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

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

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

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

(iii) Will not extend beyond four months.

(4) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);
(5) Supportive services such as child care and transportation provided to families who are employed;
(6) Refundable earned income tax credits;
(7) Contributions to, and distributions from, Individual Development Accounts;
(8) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and
(9) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

Exhibit 6-2: Annual Income Exclusions

24 CFR 5.609

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;
(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
(5) Income of a live-in aide, as defined in Sec. 5.403;
(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
(8) (i) Amounts received under training programs funded by HUD;
    (ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
    (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
    (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA 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 PHA's governing board. No resident may receive more than one such stipend during the same period of time;
(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

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

(13) [Reserved]

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

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

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

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

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

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

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

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

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

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);
g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L. 94-540, 90 Stat. 2503-04);

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

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

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

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

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

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

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

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

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

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

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

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).
Exhibit 6-3: Earned Income Disallowance for Persons with Disabilities

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

(a) Applicable programs. The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance—provided that the total amount over a six-month period is at least $500.

(c) Disallowance of increase in annual income—

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum
of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) Inapplicability to admission. The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

Exhibit 6-4: The Effect of Welfare Benefit Reduction

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.
(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.
Addendum to Chapter 6 Determination of Assets at Initial Eligibility

Treatment of Assets

Overview

For the purpose of determining initial eligibility income, the CHA, under the terms of its MTW Agreement, will consider income earned from assets or withdrawal of cash or liquidation of assets. At the time of admission, the CHA will include asset income in calculating the family’s portion of the rent. After admission to the program, participants will not be required to report assets at the time of their next reexamination.

Assets include the interest, dividends, and other net and/or imputed income of any kind from real or personal property held for investment. There is no asset limitation for participation in the HCV program.

For most types of assets, the CHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

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

This section begins with a discussion of general policies related to assets and then provides HUD rules and the CHA policies related to each type of asset.

General Policies

Definition of Assets

Assets include anything that has monetary value.

Following is a list of the most common types of assets:

- Savings and checking accounts
- Certificates of deposit (CDs)
- Stocks, bonds, mutual funds, and other investment accounts
- Life insurance policies that have a cash value
- Real property
- Personal property held as an investment, such as gems, jewelry, coin collections, and antique cars
- Employer pension and retirement funds
- Individual retirement accounts (IRAs), Keogh accounts, and similar retirement savings accounts
- Annuities
- Trusts
Income from Assets

The actual or imputed income from a family’s assets—not the value of the assets—is included in the family’s annual income. Even if a family’s assets generate no actual income, the CHA will impute income from the assets if their total value exceeds $5,000.

The CHA will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, the CHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the CHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the CHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

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

The CHA will use HUD’s six-step process to determine income from assets as follows: identify assets, determine market value, determine cash value, determine anticipated income, determine imputed income, and calculate final asset income.

1. Identification of Assets, Determination of Market Value and Cash Value by Asset Type

The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).

The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash. The CHA defines such reasonable amounts to include, but not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

Checking and Savings Accounts

For regular checking accounts and savings accounts, cash value has the same meaning as market value. If a checking account does not bear interest, the anticipated income from the account is zero.

In determining the value of a checking account, the CHA will use the current balance.

In determining the value of a savings account, the CHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the CHA will multiply the value of the account by the current rate of interest paid on the account.
Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

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

Equity in Real Property or Other Capital Investments

- Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.
- Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:
  - Equity accounts in HUD homeownership programs
  - The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home
  - Equity in owner-occupied cooperatives and manufactured homes in which the family lives
  - Equity in real property when a family member’s main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
  - Interests in Indian Trust lands
  - Real property and capital assets that are part of an active business or farming operation
- A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.
- In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.
- In the case of capital investments owned jointly with others not living in a family’s unit, a prorated share of the property’s cash value will be counted as an asset unless the CHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

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

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

No revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset so long as the value of the fund continues to be held in trust. However, any income distributed to the family from such a trust is counted in annual income as a periodic payment or a lump-sum receipt, as appropriate.

Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a retirement or pension account by an employed person, the CHA must determine whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

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

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

In determining the value of personal property held as an investment, the CHA will use the family’s estimate of the value. The CHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family’s estimated value is off by $50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

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

Necessary items of personal property are not considered assets. Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and automobiles, including those specially equipped for persons with disabilities.
Life Insurance

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

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account).

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

Annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

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

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

Assets Disposed of for Less than Fair Market Value

The CHA will count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

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

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

Assets placed by the family in no revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.
Home Equity under HCV Homeownership Program

"Net family assets" does not include the value of a home currently being purchased with assistance the HCV Homeownership Program. This exclusion is limited to the first 10 years after the purchase date of the home.

Separation or Divorce

All assets disposed of as part of a separation or divorce settlement will not be considered. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

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

Determining Actual or Anticipated Income from Assets

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

Imputing Income from Assets

When net family assets are $5,000 or less, the CHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the CHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the CHA-determined passbook savings rate.

Verification Of Assets

File Documentation

All documentation used to determine assets, value of assets, and income from assets must be incorporated in the participant's file.

Verification of Assets

Excluding Upfront Income Verification which does not include asset information, the CHA will use the verification hierarchy and protocols as otherwise described in Chapter 7 in the following order:

Third-party Written Verification

Third Party Oral Verification
Review of Documents

Self-Certification

Exceptions to Third-Party Verification

The CHA will determine that third-party verification is not available if the asset or involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification.

The CHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset is less than $500 annually and the family has original documents that support the declared amount.

The CHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification. For example, the CHA will rely upon review of documents when the CHA determines that a third party’s privacy rules prohibit the source from disclosing information.

The CHA also will determine that third-party verification is not available when there is a service charge for verifying an asset and the family has original documents that provide the necessary information.

The CHA will document in the family file the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file.

The cost of postage and envelopes to obtain third-party verification of assets is not an unreasonable cost.

If the CHA has determined that third-party verification is not available or not required, the CHA will use documents provided by the family as verification.

The CHA may also review documents when necessary to help clarify information provided by third parties. In such cases the CHA will document in the file how the CHA arrived at a final conclusion about the income or expense to include in its calculations.

Assets Disposed of for Less than Fair Market Value

The CHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The CHA needs to verify only those certifications that warrant documentation.

The CHA will verify the value of assets disposed of only if a reasonable estimation of value cannot be made from previously collected information, or the amount reported by the family in the certification appear obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last regular reexamination and the CHA verified this amount. Now the person reports that she has given this $10,000 to her son. The CHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.
Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the CHA will verify the value of this asset.
Chapter 7—Verification

Introduction
The PHA must verify all information that is used to establish the family’s eligibility and level of assistance and is required to obtain the family’s consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in PIH Notice PIH Notice 2010-3, Verification of Social Security and Supplemental Security Income Benefits, PIH Notice 2010-19, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification System and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

Part I: General Verification Requirements

7-I.A. Family Consent to Release of Information

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

Consent Forms
It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family’s consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family’s eligibility and level of assistance.

CHA Policy
The CHA will use the HUD-9886 and an Addendum to the HUD-9886 in order to implement biennial and triennial reexaminations under its MTW Plan.
Penalties for Failing to Consent
[24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with the PHA procedures.

7-I.B. Overview of Verification Requirements

HUD’s Verification Hierarchy
HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

CHA Policy
In order of priority, the forms of verification that the CHA will use are:

- Up-front Income Verification (UIV)
- Review of Documents
- Third-party Written Verification
- Third Party Oral Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

CHA Policy
Any documents used for verification must be the original (not photocopies) and generally must be dated within 120 calendar days of the date they are provided to the CHA. The documents must not be damaged, altered or in any way illegible.

The CHA will accept documents dated up to 6 months before the effective date of the family’s reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the CHA would accept the most recent report.

The CHA will accept the Social Security Administration Award Letter if issued within last twelve (12) months.

Print-outs from web pages are considered original documents.

The CHA staff member who views the original document will make a photocopy of the document for the CHA files.

Any family self-certifications must be made in a format acceptable to the CHA and must be signed in the presence of a CHA representative.
File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family’s file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

CHA Policy

The CHA will document, in the family file, the following:

- Reported family annual income
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When the PHA is unable to obtain 3rd party verification, the PHA will document in the family file the reason that third-party verification was not available and will place a photocopy of any original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

7-I.C. Up-Front Income Verification (UIV)

Up-front income verification (UIV) refers to the PHA’s use of the verification tools available from independent sources that maintain computerized information about income and benefits. UIV will be used to the extent that these systems are available to the PHA.

CHA Policy

The CHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

- HUD’s EIV system
- Department of Human Services
- Child Support

The CHA may use other non-governmental sources such as the Work Number.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

See Chapter 6 for the CHA’s policy on the use of UIV/EIV to project annual income.
Use of HUD’s Enterprise Income Verification (EIV) System

HUD’s EIV system contains data showing earned income, unemployment benefits, and social security benefits and SSI benefits for participant families. HUD requires the PHA to use the EIV system in its entirety. The following policies will apply to the use of HUD’s EIV system.

The EIV system contains two main components: tenant income data reports and “exceeds threshold” reports.

Tenant Income Data (TID) Reports

The data shown on TID reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

CHA Policy

The CHA will obtain TID reports for regular reexaminations on a monthly basis as part of the regular reexamination process.

TID reports will be compared to family-provided information as part of the regular reexamination process. TID reports may be used in the verification of annual income, as described in Chapter 6.I.C. TID reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

TID reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits, and to verify that families claiming zero income are not receiving income from any of these sources.

TID reports will be retained in participant files with the applicable regular or interim reexamination documents.

When the CHA determines through TID reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

Income Discrepancy Reports (IDRs)

The IDR is a tool for identifying families who may have concealed or under-reported income. Data in the IDR represents income for past reporting periods and may be between 6 months and 30 months old at the time IDRs are generated.

Families who have not concealed or under-reported income may appear on the IDR in some circumstances, such as loss of a job or addition of new family members.
CHA Policy

The CHA will generate and review IDRs periodically. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, the CHA will begin with the largest discrepancies.

When the CHA determines that a participant appearing on the IDR has not concealed or under-reported income, the participant’s name will be placed on a list of “false positive” reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from IDR processing until a subsequent interim or regular reexamination has been completed.

When it appears that a family may have concealed or under-reported income, the CHA will request third-party written verification of the income in question.

When the CHA determines through IDR review and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2010-3].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

CHA Policy

The CHA will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

The CHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant, updating section 3 of the form HUD-50058, and transmitting a revised form HUD-50058 into PIC. When the CHA determines that discrepancies exist due to CHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

Note: The availability of certain income information in the EIV system, such as that pertaining to SS and SSI benefits, depends on the quality of PHA data and the timely submission of form HUD-50058 in the PIC system. The PHA must submit form HUD-50058 electronically, and ensure that data entered in section 3 of the form is complete and accurate. If a family’s form is not successfully submitted to PIC, income information will not be available in PIC [24 CFR 908.201, Notice PIH 2010-3].
7-I.F. Review of Documents

Using Review of Documents as Verification

CHA Policy

The CHA will use documents provided by the family as verification.

The CHA may also review documents when necessary to help clarify information provided by third parties. In such cases the CHA will document in the file how the CHA arrived at a final conclusion about the income or expense to include in its calculations.

7-I.E. Third-Party Written and Oral Verification

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires the PHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

CHA Policy

The CHA will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The CHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The CHA will send a written request for verification to each required source and give the source 10 calendar days to respond in writing. If a response has not been received by the 11th calendar day, the CHA may request third-party oral verification.

The CHA will make two attempts to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file.

When any source responds verbally to the initial written request for verification the CHA will accept the verbal response but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the CHA will wait no more than 7 calendar days for the information to be provided. If the information is not provided by the 8th calendar day, the CHA will use any information provided orally in combination with the information provided by the family.

The CHA will use a SSA benefit verification letter provided by the family or an EIV income report that displays the social security benefit amount as the third party verification. No additional verification will be conducted by the CHA.

In the case of applicants, the CHA will request that the applicant provide a benefit verification letter dated within the last 60 calendar days for each family member that receives social security and/or supplemental security income. If the family does not have a current benefit letter:
The CHA will assist the applicant in obtaining a proof of income for all applicable family members from the SSA website, Social Security Online at www.socialsecurity.gov, or

The CHA will ask the applicant a proof of income for all applicable family members from the SSA toll free number (800-772-1213).

When Third-Party Information is Late
When third-party verification has been requested and the timeframes for submission have been exceeded, the PHA will use the information from documents on a provisional basis. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used for the reexamination.

**CHA Policy**
The CHA will use third-party verification that is received late and is past the deadline for processing the reexamination to conduct an interim reexamination to adjust the income amounts used for the reexamination only for zero income families and in cases where there is reason to believe that the family engaged in deliberate fraud or program abuse.

When Third-Party Verification is Not Required

**Primary Documents**
Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

**Certain Expenses**
The PHA will determine that third-party verification is not available if the expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

**CHA Policy**
The CHA will use review of documents in lieu of requesting third-party verification when the amount of an individual expense is less than $500 annually and the family has original documents that support the declared amount.

**Certain Income and Expense Sources**
The PHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the PHA will rely upon review of documents when the PHA determines that a third party’s privacy rules prohibit the source from disclosing information.

**CHA Policy**
The CHA also will determine that third-party verification is not available when there is a service charge for verifying an expense and the family has original documents that provide the necessary information.

The CHA will document in the family file the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file. [VG, p. 15].
7-I.F. Self-Certification

**CHA Policy**

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the CHA.

The CHA may require a family to certify that a family member does **not** receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the CHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a CHA representative.

7-I.G. EIV Request Requirements

[PIH 2010-19]

For each new admission or historical adjustment, the PHA is required to review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date.

For each interim reexamination of family composition or income, the PHA is required to have the following documentation in file:

- ICN Page when there is no household income discrepancy noted on the household’s Income Discrepancy Report tab or Income Discrepancy Report.

- EIV Income Report when there is an income discrepancy noted on the household’s Income Discrepancy Report tab or Income Discrepancy Report.

For each annual reexamination of family income and composition, the PHA is required to have the following documentation in the tenant file:

- No Dispute of EIV Information: EIV Income Report, current acceptable tenant-provided documentation, and if necessary (as determined by the PHA), traditional third party verification form(s).

- Disputed EIV Information: EIV Income report, current acceptable tenant-provided documentation, and/or traditional third party verification form(s) for disputed information.

- Tenant-reported income not verifiable through EIV system: Current tenant-provided documents, and if necessary (as determined by the PHA), traditional third party verification form(s).
Part II: Verifying Family Information

7-II.A. Verification of Legal Identity

CHA Policy

The CHA will require families to furnish verification of legal identity for each household member.

Family members who declare citizenship or national status will not be required to provide additional documentation for verification purposes.

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<thead>
<tr>
<th>Verification of Legal Identity for Adults</th>
<th>Verification of Legal Identity for Children</th>
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</thead>
<tbody>
<tr>
<td>Certificate of birth, naturalization papers</td>
<td>Certificate of birth</td>
</tr>
<tr>
<td>Church issued baptismal certificate</td>
<td>Adoption papers</td>
</tr>
<tr>
<td>Current, valid driver's license or Department of Motor Vehicles identification card</td>
<td>Custody agreement</td>
</tr>
<tr>
<td>U.S. Military ID</td>
<td>Health and Human Services ID</td>
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<tr>
<td>U.S. military discharge (DD 214)</td>
<td>School records</td>
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<tr>
<td>Picture ID issued by a governmental agency</td>
<td>Court-issued emancipation documentation</td>
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<td>U.S. passport</td>
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<td>Employer identification card</td>
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If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If, as a result of a national disaster or other uncontrollable circumstances none of these documents can be provided and at the CHA’s discretion and on a case-by-case basis, a third party who knows the person may attest to the person’s identity. The certification must be provided in a format acceptable to the CHA and be signed in the presence of a CHA representative or notary public. The certification will be accepted on a temporary basis until proper documentation is received.

Legal identity will be verified on an on as needed basis.
7-II.B. Social Security Numbers
[24 CFR 5.216 and Notice PIH 2010-3]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants as of January 31, 2010, who have either previously disclosed social security numbers that HUD has determined to be valid or are 62 years of age or older and had not previously disclosed a SSN.

CHA Policy
The CHA will consider the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual
- Such other evidence of the SSN as HUD may prescribe in administrative instructions

The PHA may only reject documentation of a SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

CHA Policy
The CHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the CHA within 90 calendar days.

If the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list, but assistance cannot be provided to the family until all SSN documentation requirements are met.

CHA Policy
The CHA will allow the family to retain its place on the waiting list for 180 calendar days while the disclosure and documentation of social security numbers are pending.

If not all household members have disclosed their SSNs at the next time the CHA is issuing vouchers, the CHA will offer assistance to the next eligible applicant family on the waiting list.

When a participant requests to add a new household member who is under the age of 6 and has not be assigned a SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant’s failure to comply was due to unforeseen circumstances and was outside of the participant’s control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.
CHA Policy
The CHA will grant one additional 90-day extension if needed for reasons beyond the participant’s control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency approved by the CHA.

Social security numbers must be verified only once during continuously-assisted occupancy.

The social security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

CHA Policy
The CHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participant that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder
- For participants, recording the SSN on line 3n of the form HUD-50058, and transmitting the form within 30 days of completion

HUD, via its computer matching program with the Social Security Administration, will validate the SSN against the SSA’s database, and EIV will report the verification status on the household summary report. The PHA is required to retain the EIV summary report or income report in each family file as confirmation of compliance with the disclosure, documentation, and verification requirements.

Once the individual’s verification status is classified as “verified,” the PHA should remove and destroy copies of documentation it accepted as evidence of social security numbers by no later than the next reexamination.

CHA Policy
CHA may retain SSN records as proof of compliance. However, ultimate validation will be based on EIV supporting documentation.

7-II.C. Documentation of Age
A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

CHA Policy
If an official record of birth or evidence of social security retirement benefits cannot be provided, the CHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver’s license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.
7-II.D. Family Relationships

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

**CHA Policy**

Family relationships are verified only to the extent necessary to determine a family’s eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

**Marriage**

**CHA Policy**

Certification by the head of household is normally sufficient verification. If the CHA has reasonable doubts about a marital relationship, the CHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

**Separation or Divorce**

**CHA Policy**

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

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

**Absence of Adult Member**

**CHA Policy**

For participating families, if an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

**Foster Children and Foster Adults**

**CHA Policy**

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.
7-II.E. Verification of Student Status

General Requirements

CHA Policy

The CHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family reports child care expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an institution of higher education.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

CHA Policy

In accordance with the verification hierarchy described in Section 7-1.B, the CHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of institution of higher education in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- The student has disabilities and was receiving assistance under section 8 of the 1937 Act as of November 30, 2005

If the CHA cannot verify at least one of these exemption criteria, the CHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student’s income eligibility, the CHA will then proceed to verify either the student’s parents’ income eligibility (see Section 7-III.J) or the student’s independence from his/her parents (see below).

Independent Student

CHA Policy

The CHA will verify a student’s independence from his/her parents to determine that the student’s parents’ income is not relevant for determining the student’s eligibility based on the following:

Both reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and
verifying documentation relevant to determining whether the student meets the U.S. Department of Education’s definition of independent student (see Section 3-II.E)

Reviewing a copy of the student’s Free Application for Federal Student Aid (FAFSA).

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

Requesting and obtaining written certification directly from the student’s parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

7-II.F. Documentation of Disability

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person’s disability [24 CFR 100.202(c)]. The PHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant’s medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services’ website at www.os.dhhs.gov.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability

Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability

Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance

Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

CHA Policy
For family members claiming disability who receive disability benefits from the SSA, the CHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD’s EIV System is not available, the CHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the CHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the CHA.
Family Members Not Receiving SSA Disability Benefits
Receipt of veteran’s disability benefits, worker’s compensation, or other non-SSA benefits based on the individual’s claimed disability are not sufficient verification that the individual meets HUD’s definition of disability in 24 CFR 5.603.

CHA Policy
For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. Citizenship or Eligible Immigration Status
[24 CFR 5.508]

Overview
Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals
HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

CHA Policy
Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the CHA receives information indicating that an individual’s declaration may not be accurate.

Eligible Immigrants
Documents Required
All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.
**PHA Verification** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

**7-II.H. Verification of Preference Status**

The PHA must verify any preferences claimed by an applicant.

**CHA Policy**

The CHA will verify eligibility for local preferences as follows:

For families that are victims of a federally declared natural disaster affecting the city of Chicago:

The CHA will verify this preference with the Federal or state agency responsible for administering the disaster relief efforts in Chicago.

For families residing in the CHA public housing developments that are participating in the CHA’s Victim Assistance Program:

The CHA will verify that the family is eligible under the CHA Victim Assistance Program criteria.

For families that are actively participating in a Witness Protection Program:

The CHA will verify this preference with the applicable Federal or state law enforcement agency. The law enforcement agency must certify that the family is a victim or witness of a violent crime, is in a life threatening situation, and the family needs assistance to move in order to ensure their continued protection.

For families living in a CHA public housing unit which must be rehabilitated to meet ADA/504 requirements and for whom alternate the CHA public housing units are not available:

The CHA will verify the family’s preference eligibility with the CHA’s 504/ADA Coordinator.

For families that have been terminated from the CHA’s HCV program due to insufficient program funding:

The CHA will verify this preference using the CHA’s termination records.

For families with persons with disabilities who have Medicaid Home and Community Based Services Waivers under Section 1515 (c) of the Social Security Act:

Referral to the CHA by the Medical Waiver Service Provider (i.e., Access Living) is considered verification that the family is eligible for this preference.
For over housed or under housed families living in a CHA Section 8 moderate rehabilitation project:

The CHA will verify that the family is either over housed or under housed and that no appropriate size Section 8 moderate rehabilitation units are available in the project.

For families who were applicants for public housing properties that were being converted to senior housing under the CHA’s 2005 Senior Designated Housing Plan:

The CHA will verify that the family was on the CHA 2005 Senior Designated Housing Waiting List.

For families under a CHA public housing lease who are fully compliant with the Public Housing Program may participate in the CHA's Housing Choice Voucher Homeownership Program. The CHA will verify family's eligibility according to the Homeownership Program criteria.

For families referred through the determined process from the City of Chicago, State of Illinois, and others including the Chicago Continuum of Care:

The CHA must receive a written referral by the designated agency and case manager in permanent supportive housing units who are no longer in need of the intensive supportive services provided by the supportive housing program.

See Chapter 17 for the procedures the CHA will use to verify the preferences under the property-based voucher program.

**Part III: Verifying Income**

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded. Any income reported by the family must be verified. This part provides the PHA policies that supplement the general verification procedures specified in Part I of this chapter.

**7-III.A. Earned Income**

**Tips**

**CHA Policy**

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.
7-III.B. Business and Self Employment Income

CHA Policy

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The CHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the CHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the CHA may accept the family member's certified estimate of income and schedule an interim reexamination within three (3) months.

7-III.C. Periodic Payments and Payments in Lieu of Earnings

Social Security/SSI Benefits

CHA Policy

To verify the SS/SSI benefits of applicants, the CHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the CHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.socialsecurity.gov. Once the applicant has received the benefit verification letter they will be required to provide it to the CHA.

To verify the SS/SSI benefits of participants and household members, the CHA will obtain information about social security/SSI benefits through the HUD EIV System and confirm with the participant that the current listed benefit amount is correct. If the participant disputes the EIV reported benefit amount, or if benefit information is not available in HUD systems, the CHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the CHA will help the participant request a benefit verification letter from SSA’s web site at www.socialsecurity.gov or ask the family to request one by calling the SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the CHA.
7-III.D. Alimony or Child Support

CHA Policy

The way the CHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it receives regular payments, verification will be sought in the following order.

If payments are made through a state or local entity, the CHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Third-party verification from the person paying the support

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs, or, in the case of electronic deposit, a print-out of payments and disbursements

Family’s self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.
7-III.E. Assets and Income from Assets

**Assets Disposed of for Less than Fair Market Value**

HUD requires that the family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

**CHA Policy**

Under its MTW Plan, the CHA will consider assets or income earned from assets only for the purpose of determining that the family meets program income limits for admission to the HCV program. The value of assets will not be included in tenant income and rent calculations at, interim or regular reexaminations for the HCV program.

7-III.F. Net Income from Rental Property

**CHA Policy**

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant

- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the CHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. Retirement Accounts

**CHA Policy**

When third-party verification is not available the type of original document that will be accepted depends upon the family member’s retirement status.

*Before* retirement, the CHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

*Upon* retirement, the CHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

*After* retirement, the CHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.
7-III.H. Income from Excluded Sources
A detailed discussion of excluded income is provided in Chapter 6, Part I.

The PHA must obtain verification for income exclusions only if, without verification, the PHA would not be able to determine whether the income is to be excluded. For example: If a family’s 16 year old has a job at a fast food restaurant, the PHA will confirm that the PHA records verify the child’s age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

CHA Policy
The CHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance and earned income of full-time students over the age of 18). In all other cases, the CHA may not verify excluded income such as food stamps nor report it on the 50058.

7-III.I. Zero Annual Income Status
CHA Policy
The CHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

7-III.J. Student Financial Assistance
Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

CHA Policy
For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the CHA will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, the CHA will request written verification from the institution of higher education regarding the student’s tuition amount.

If the CHA is unable to obtain third-party written verification of the requested information, the CHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.
7-III.K. Parental Income of Students Subject to Eligibility Restrictions

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with PHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

**CHA Policy**

If the CHA is required to determine the income eligibility of a student's parents, the CHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The CHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the CHA. The required information must be submitted (postmarked) within 10 calendar days of the date of the CHA's request or within any extended timeframe approved by the CHA.

The CHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

**Part IV: Verifying Mandatory Deductions**

7-IV.A. Dependent and Elderly/Disabled Household Deductions

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

**Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

**Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.
7-IV.B. Medical Expense Deduction

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

CHA Policy

Medical expenses will be verified through:

Copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used.

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA’s policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

CHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

CHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the CHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family’s annual income in past years
7-IV.C. Disability Assistance Expenses

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

CHA Policy

The CHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

CHA Policy

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, a billing statement for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).
Family Member(s) Permitted to Work
The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

CHA Policy
The CHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses
To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

CHA Policy
An attendant care provider will be asked to certify that, to the best of the provider’s knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. Child Care Expenses
Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child
To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).
Unreimbursed Expense
To be eligible for the child care deduction, the costs must not be reimbursed by another source.

CHA Policy

Child care expenses will be verified through:

**Third-party verification:**

Third-party verification form completed and signed by the provider

**Third-party written:**

Original or authentic child care agency print outs of payments made by the family that identify the child for which services were provided

**Family Declaration:**

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months, identifying the child for which services will be provided.

Third-party verification form is the highest verification requirement for child care expenses as the child care provider will also be asked to certify that, to the best of the provider’s knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity
The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

CHA Policy

**Information to be Gathered**

The CHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity as a result of the paid child care.

**Seeking Work**

Whenever possible the CHA will first require the family to provide original or authentic documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases where documents are not available, or do not provide adequate information for determination that the child care is essential, the CHA will request verification from the agency of the member’s job seeking efforts to date and require the family to submit to the CHA any reports provided to the other agency.
In the event third-party verification is not available, the CHA will provide the family with a form on which the family member must record job search efforts. The CHA will review this information at each subsequent reexamination for which this deduction is claimed.

**Furthering Education**

The CHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

**Gainful Employment**

The CHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

**Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

**CHA Policy**

The CHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The CHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The CHA will verify that the child care provider is not a member of the assisted family. Verification will be made through the head of household’s declaration of family members who are expected to reside in the unit.

**Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

**CHA Policy**

The actual costs the family incurs will be compared with the CHA’s established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the CHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.
## Exhibit 7-1: Excerpt from HUD Verification Guidance Notice
(PIH 2010-19, pp. 11-14)

### The Verification Hierarchy

PHAs should begin with the highest level of verification techniques.

PHAs are required to access the EIV system and obtain an Income Report for each household. The PHA is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition.

If the Income Report does not contain any employment and income information for the family, the PHA should attempt the next lower level verification technique, as noted in the chart below.

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

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

Third Party Verification Techniques

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

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

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

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

Current acceptable tenant-provided documents must be used for income and rent determinations.

The PHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third party verification form or the best available information.

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

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

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

The Department recognizes that third party verification request forms sent to third party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third party source to provide false information; or the tenant intercepts the form and provides false information.
The Department requires PHAs to rely on documents that originate from a third party source’s computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third party verification request form. The use of acceptable tenant-provided documents, which originate from a third party source, will improve the integrity of information used to determine a family’s income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

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

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

**Non-Third Party Verification Technique**

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

**Exceptions to Third Party Verification Requirements**

HUD is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the PHA is **required to document in the family file the reason(s) why third party verification was not available.**

The exception to third party verification can be found at 24 CFR §960.259(c)(1) and §982.516(a)(2), which states, “The PHA must obtain and document in the family file third party verification of the following factors, or must document in the file why third party verification was not available.”

1. **Third party verification requirements.** In accordance with 24 CFR §960.259(c)(1) and 24 CFR §982.516(a)(2) for the Public Housing and the HCV programs, respectively, the PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available: (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income.

2. **How to comply with and reduce administrative burden of third party verification requirements of family annual income.** PHAs can comply with and reduce administrative burden of third party verification requirements for employment, wage, unemployment compensation and social security benefits, and any other information that is verifiable using EIV by:
   a. Reviewing the EIV Income Report to confirm/validate tenant-reported income; and
   b. Printing and maintaining an EIV Income Report (or an EIV Individual Control Number (ICN) page for interim reexaminations as prescribed in Section 12 of this Notice) in the tenant file; and
c. Obtaining current acceptable tenant-provided documentation to supplement EIV information; and

d. Using current tenant-provided documentation and/or third party verification to calculate annual income.

**Note:** Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant. See PIH Notice 2010-03 for guidance on verifying Social Security benefit income through the EIV system.

The PHA may also reduce the administrative burden of obtaining third party verification by relying on acceptable documents that are generated by a third party, but provided by the tenant. Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

3. **When the PHA is required to request written third party verification.** The PHA must request written third party verification under the following circumstances:

   a. When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR §5.236(b));

   b. When the PHA requires additional information that is not available in EIV and/or the tenant is unable to provide the PHA with current acceptable tenant-provided documentation. Examples of additional information, includes but is not limited to:

      i. Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)

      ii. For new employment: pay rate, number of hours worked per week, pay frequency, etc.

      iii. Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.)

   **Note:** 24 CFR §5.236(a), prohibits PHAs from taking adverse action based solely on EIV information.

4. **Type of file documentation required to demonstrate PHA compliance with mandated use of EIV as a third party source to verify tenant employment and income information (24 CFR §5.233(a)(2)(i)).**

   A. For each new admission (form HUD-50058 action type 1), the PHA is required to do the following:

      i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and

      ii. Print and maintain a copy of the EIV Income Report in the tenant file; and

      iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
C. For each historical adjustment (form HUD-50058 action type 14), the PHA is required to do the following:

   i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and

   ii. Print and maintain a copy of the EIV Income Report in the tenant file; and

   iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

D. For each interim reexamination (form HUD-50058 action type 3) of family income and composition, the PHA is required to have the following documentation in the tenant file:

   i. ICN Page when there is no household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. (PHAs have the discretion to print the EIV Income report, however, only the ICN page is required.) See sample screen shot below.

   ![Sample Screen Shot](image)

   **Summary Report**  **Income Report**  **Income Discrepancy Report**

   **No Income Discrepancy Report is available for the household.**

   **Note:** The ICN Page is available from the Summary Report tab. See sample screen shot below:
ii. **EIV Income Report** when there is an income discrepancy noted on the household’s Income Discrepancy Report tab or Income Discrepancy Report. See sample screen shot below.

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**E.** For each annual reexamination of family income and composition, the PHA is required to have the following documentation in the tenant file:
i. **No Dispute of EIV Information:** EIV Income Report, current acceptable tenant-provided documentation, and *if necessary* (as determined by the PHA), traditional third party verification form(s). See examples 1 and 3 below.

ii. **Disputed EIV Information:** EIV Income report, current acceptable tenant-provided documentation, and/or traditional third party verification form(s) for disputed information. See example 2 below.

iii. **Tenant-reported income not verifiable through EIV system:** Current tenant-provided documents, and *if necessary* (as determined by the PHA), traditional third party verification form(s). See example 3 below.

**Example 1: No Disputed EIV Information & Tenant Provided Documents**

You are conducting an annual reexam with tenant, Mary Jones. Ms. Jones reports that she is employed at the ABC Box Company. You pull up the EIV income report for the Jones family, which shows quarterly wages from the ABC Box Company for the full year of 2008, and the first two quarters of 2009. Last year’s (2009) annual reexam reflects wages from the same employer. There is no other income information on the report.

The PHA may streamline the income verification process by requesting Ms. Jones provide current pay stubs dated within the last 60 days of the interview or PHA request date. The PHA must obtain a minimum of two current and consecutive pay stubs from Ms. Jones. Since there is no disparity between tenant-reported and EIV-reported income, the PHA may obtain original and current tenant-provided pay stubs to calculate annual income.

The PHA may **not** use quarterly EIV wage (or unemployment benefit) information to calculate annual income since this information is at least six months old and more current income information (from pay stubs) is available.

**Example 2: Disputed EIV Information & No Tenant-Provided Documents**

You are conducting an annual reexam with tenant, Bob Miller. Mr. Miller reports that his only source of income is monetary support from his sister, Betty Miller. You pull up the EIV income report for the Miller family, which shows quarterly wages from the Home Depot for the full year of 2008, and the first two quarters of 2009. There is no other income information on the EIV report. Last year’s (2009) annual reexam reflects no wage information and only source of income is other non-wage income (monetary support from family member).

You inform Mr. Miller that the EIV system shows wages from the Home Depot and ask him to provide you with current pay stubs. Mr. Miller states that he does not work there and has no pay stubs.

Because Mr. Miller disputes the EIV-reported income and is unable to provide documents to support his dispute, the PHA **must** request written third party verification from Home Depot. You mail a third party verification request form to the address listed for Home Depot.
A few days later, you receive the third party verification request form back from Home Depot, which indicates that Mr. Miller has been employed there since January 5, 2008, and a payroll summary report, showing Mr. Miller’s bi-weekly gross and net pay since January 2008. Since the disputed EIV information has been confirmed to be correct by the independent third party source (Home Depot), the PHA will use the income information from the payroll summary report to calculate annual income. The PHA would also calculate the retroactive rent (using the information provided by Home Depot) since Mr. Miller failed to disclose his employment at the 2008 and 2009, annual reexams. The PHA would also inform Mr. Miller of this retroactive rent and take action according to PHA-established policies.

Example 3: Tenant Unreported Income, Income not Verifiable through EIV & Tenant- Provided Documents

You are conducting an annual reexam with tenant, Sharon Duvet. Ms. Duvet reports that her only source of income is child support and provides you with four current and consecutive child support pay stubs. You pull up the EIV Income Report for the Duvet family, which shows: hire date at the District Police Department effective January 9, 2005; quarterly wages from the District Police Department for the full years of 2005, 2006, 2007, and 2008, and the first two quarters of 2009. There is no other income information on the EIV Income Report. Last year’s (2009) annual reexam reflects income from only child support. You inform Ms. Duvet that the EIV system is showing wages from the District Police Department and you ask her to provide you with current pay stubs. Ms. Duvet admits that she has been working at the District Police Department and indicates that she can provide you with current pay stubs. You inform Ms. Duvet that you will also have to calculate her retroactive rent for the previous years in which she did not disclose her employment. You go over the EIV-reported wages with Ms. Duvet and she indicates that she does not dispute the information.

Since Ms. Duvet does not dispute the EIV-reported information, the PHA may use the tenant provided documents to calculate income and rent for the 2010 annual reexam, and use the EIV-reported earnings for years 2005 through 2008, to calculate the retroactive rent Ms. Duvet will owe. The PHA should require Ms. Duvet to provide her last pay stub from 2009, or her 2009 W-2, to calculate the retroactive rent for 2009. The PHA will use the tenant-provided child support pay stubs (child support income is not available in EIV) to calculate annual income from this source.

F. What if the tenant does not provide the PHA with requested information? If the tenant does not provide the requested information, the PHA may mail or fax a third party verification request form to the third party source. The PHA is required to request third party verification when the tenant disputes EIV information and the tenant is unable to provide acceptable documentation to support disputed information. However, the PHA should also remind the tenant that s/he is required to supply any information requested by the PHA for use in a regularly scheduled annual or interim reexamination of family income and composition.

The PHA may determine that the tenant is not in compliance with program requirements and terminate tenancy or assistance, or both, if the tenant fails to provide the requested information in a timely manner (as prescribed by the PHA).
G. How to use EIV to reduce administrative and subsidy payment errors. EIV has the ability to identify other potential issues which may impact a family’s level of assistance. EIV contains stand-alone reports, which a PHA may generate at any time (i.e. Deceased Tenants Report, New Hires Report, Multiple Subsidy Report, Identity Verification Report, Income Discrepancy Report, Debts Owed to PHAs & Termination Report, and Immigration Report). However, it should be noted that the information from these stand-alone reports are contained in the Income Report for each household. PHAs are required to address any and all potential issues at the time of the annual or interim reexam, as conveyed in the Income Report.

PHAs may use the stand-alone reports to monitor staff’s progress in reducing the following administrative and subsidy payment errors by using the listed reports:

a. Incorrect/invalid SSNs/name/date of birth – Identity Verification Report
b. Follow-up with families who need to disclose a SSN – Immigration Report
c. Duplicate rental assistance – Multiple Subsidy Report
d. Unreported increase in income – Income discrepancy Report
e. Improper payments on behalf of deceased tenants – Deceased Tenants Report
f. Unreported new employment (PHAs with interim increase policy) – New Hires Report
g. Adverse Termination/Outstanding Debt to PHA – Debts Owed to PHAs & Termination Search

In order to ensure PHAs are aware of potential subsidy payment errors, PHAs are required to monitor the following EIV reports on a monthly basis:

1. Deceased Tenants Report
2. Identity Verification Report
3. Immigration Report

In order to ensure PHAs are aware of potential subsidy payment errors, PHAs are required to monitor the following EIV reports on a quarterly basis:

1. Income Discrepancy Report
2. Multiple Subsidy Report
3. New Hires Report (if your agency has an interim increase policy)
H. How to use the EIV Income Report as a third party source to verify tenant employment and income information. The EIV Income Report provides a variety of information about each household member of the family. The report contains the following information for each household member:

a. Personal identifiers: name, date of birth, and SSN

b. Identity verification status (pending, verified, deceased, or failed)

c. Employment information
   1. New Hire Information (W-4)
      i. Date hired
      ii. Employer name
   2. Employer name, address, and employer identification number of current and past employers
   3. Quarterly earnings

d. Quarterly unemployment compensation

e. Social Security benefit information
   1. Social Security (SS) benefits
      i. Payment status code
      ii. Date of current entitlement
      iii. Current net monthly benefit amount (if payable)
      iv. Gross monthly benefit history (last 8 changes in benefit amount)
      v. Lump sum payment amount and date
      vi. Payee name and address
   2. Dual Entitlement (Social Security benefits under another person’s SSN)
      i. Claim Number (the other person’s SSN)
      ii. Payment status code
      iii. Date of current entitlement
      iv. Current net monthly benefit amount (if payable)
      v. Gross monthly benefit history (last 8 changes in benefit amount)
      vi. Payee name and address
vii.

3. Supplemental Security Income (SSI)
   i. Payment status code
   ii. Alien indicator
   iii. Current net monthly benefit amount
   iv. Current monthly state supplement benefit amount (if available)
   v. Gross monthly benefit history (last 8 changes in benefit amount)
   vi. Payee name and address

4. Medicare data
   i. Payee name and address
   ii. Monthly hospital insurance premium amount, buy-in status, and buy-in start and end dates
   iii. Monthly supplemental medical insurance premium amount, buy-in status, and buy-in start and end dates
   f. Disability status and onset date
   g. Identity verification status
   h. Indicator of possible multiple rental subsidy
   i. Indicator of debt and/or termination information from another PHA (effective September 2010)

All EIV Income Reports contain the date the report was generated and by whom; and the date EIV received each type of information.

To minimize tenant underreporting of income, PHAs are required to obtain an EIV Income Report for each family any time the PHA conducts an annual or interim reexamination of family income and composition.

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

1. Discuss the income discrepancy with the tenant; and
2. Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/or income sources; and
3. In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the PHA is required to request from the third party source, any information necessary to resolve the income discrepancy; and

4. If applicable, determine the tenant’s underpayment of rent as a result of unreported or underreported income, retroactively*; and

5. Take any other appropriate action as directed by HUD or the PHA’s administrative policies.

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

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

The tenant must be provided an opportunity to contest the PHA’s determination of tenant rent underpayment. HUD regulations require PHAs to promptly notify tenants in writing of any adverse findings made on the basis of the information verified through the aforementioned income discrepancy resolution process. The tenant may contest the findings in accordance with the PHA’s established grievance procedures, as required by HUD. The PHA may not terminate, deny, suspend, or reduce the family’s assistance until the expiration of any notice or grievance period.

When there is an unsubstantial or no disparity between tenant-reported and EIV-reported income information, the PHA is required to obtain from the tenant, any necessary documentation to complete the income determination process. As noted previously, the PHA may reject any tenant-provided documentation, if the PHA deems the documentation unacceptable. The PHA may reject documentation provided by the tenant for only the following HUD-approved reasons:

1. The document is not an original; or

2. The original document has been altered, mutilated, or is not legible; or

3. The document appears to be a forged document (i.e. does not appear to be authentic).

The PHA should explain to the tenant, the reason(s) the submitted documents are not acceptable and request the tenant to provide additional documentation. If at any time, the tenant is unable to provide acceptable documentation that the PHA deems necessary to complete the income determination process, the PHA is required to submit a traditional third party verification form to the third party source for completion and submission to the PHA.

If the third party source does not respond to the PHA’s request for information, the PHA is required to document the tenant file of its attempt to obtain third party verification and that no response to the third party verification request was received.

The PHA should then pursue lower level verifications in accordance with the verification hierarchy listed in section 8 of this notice.
I. **Tenant Repayment Agreement.** Tenants are required to reimburse the PHA if they were charged less rent than required by HUD’s rent formula due to the tenant’s underreporting or failure to report income. The tenant is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the PHA **must** terminate the family’s tenancy or assistance, or both. HUD does **not** authorize any PHA-sponsored amnesty or debt forgiveness programs.

All repayment agreements must be in writing, dated, signed by both the tenant and the PHA, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements must contain the following provisions:

a. Reference to the paragraphs in the Public Housing lease or Section 8 information packet whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.

b. The monthly retroactive rent repayment amount is in addition to the family’s regular rent contribution and is payable to the PHA.

c. The terms of the agreement may be renegotiated if there is a decrease or increase in the family’s income.

d. Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

PHAs are required to determine retroactive rent amount as far back as the PHA has documentation of family reported income. For example, if the PHA determines that the family has not reported income for a period of five years and only has documentation for the last three years, the PHA is only able determine retroactive rent for the three years for which documentation is available.

The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed should be affordable and not exceed 40 percent of the family’s monthly adjusted income. However, PHAs have the discretion to establish thresholds and policies for repayment agreements in addition to HUD required procedures.

**Example:**

- Family’s monthly adjusted income is $1,230.
  - Family’s monthly rent payment is $369 (30% of the family’s monthly adjusted income).
  - 40% of the family’s monthly adjusted income is $492.
  - The monthly payment for the repayment agreement should not exceed $123 per month ($369 monthly rent + $123 repayment = $492, 40% of the family’s monthly adjusted income.)

**Repayment Time Period.** The period in which the retroactive rent balance will be repaid is based on the monthly payments and original retroactive balance.

**Example:** The tenant agrees to repay $1,000, by making a monthly payment of $25 for 40 months.
Repayment Options. Tenants have the option to repay the retroactive rent balance as follows:

1. In a lump sum payment; or
2. Monthly installment; or
3. A combination of 1 and 2, above
   a. For example, a tenant may owe $1,000, make a lump sum payment of $300 and enter into a repayment agreement for the remaining balance of $700.

J. How long should the PHA maintain EIV printouts in a tenant file? The PHA’s record retention policy will determine the length of time the PHA should maintain EIV printouts in a tenant file. PHAs are authorized to maintain the EIV Income Report in the tenant file for the duration of tenancy and no longer than three years from the end of participation (EOP) date. In accordance with revised regulation, 24 CFR §908.101, PHAs are required to maintain at a minimum, the last three years of the form HUD-50058, and supporting documentation for all annual and interim reexaminations of family income. All records are to be maintained for a period of at least three years from the effective date of the action.

K. Disclosure of an Individual’s EIV Information. The Federal Privacy Act (5 USC §552a, as amended) prohibits the disclosure of an individual’s information to another person without the written consent of such individual. As such, the EIV data of an adult household member may not be shared (or a copy provided or displayed) with another adult household member, unless the individual has provided written consent to disclose such information.

However, the PHA is not prohibited from discussing with the head of household (HOH) and showing the HOH how the household’s income and rent were determined based on the total family income reported and verified.

EIV information and any other information obtained by the PHA for the purpose of determining eligibility and level of assistance for a PIH rental assistance program may not be disclosed to third parties for any reason (even for similar verifications under other programs, such as eligibility for low income housing tax credit units, other federal or state assistance programs), unless the tenant has authorized such disclosure in writing.

L. What to do if the EIV Information is incorrect.

Sometimes the source or originator of EIV information may make an error when submitting or reporting information about tenants. HUD cannot correct data in the EIV system. Only the originator of the data can correct the information. When the originator corrects the data, HUD will obtain the updated information with its next computer matching process. Below are the procedures tenants and PHAs should follow regarding incorrect EIV information.

Employment and wage information reported in EIV originates from the employer. The employer reports this information to the local State Workforce Agency (SWA), who in turn, reports the information to HHS’ National Directory of New Hires (NDNH) database.
If the tenant disputes this information, s/he should contact the employer directly, in writing to dispute the employment and/or wage information, and request that the employer correct erroneous information.

The tenant should provide the PHA with this written correspondence so that it may be maintained in the tenant file. If employer resolution is not possible, the tenant should contact the local SWA for assistance.

**Unemployment benefit information** reported in EIV originates from the local SWA. If the tenant disputes this information, s/he should contact the SWA directly, in writing to dispute the unemployment benefit information, and request that the SWA correct erroneous information. The tenant should provide the PHA with this written correspondence so that it may be maintained in the tenant file.

**SS and SSI benefit information** reported in EIV originates from the SSA. If the tenant disputes this information, s/he should contact the SSA at (800) 772–1213, or visit the local SSA office. SSA office information is available in the government pages of the local telephone directory or online at [http://www.socialsecurity.gov](http://www.socialsecurity.gov).

**Note:** The tenant may also provide the PHA with third party documents which are in the tenant’s possession to support their dispute of EIV information. The PHA, with the tenant’s consent, is required to submit a third party verification form to third party sources for completion and submission to the PHA, when the tenant disputes EIV information and is unable to provide documentation to validate the disputed information. The tenant’s failure to sign the consent form is grounds for termination of tenancy and/or assistance in accordance with 24 CFR §5.232.

**Debts owed to PHAs and termination information** reported in EIV originates from the PHA. If a current or former tenant disputes this information, s/he should contact the PHA (who reported the information) directly in writing to dispute this information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the PIH program.

**Identity Theft.** Seemingly incorrect information in EIV may be a sign of identity theft. Sometimes someone else may use an individual’s SSN, either on purpose or by accident. SSA does not require an individual to report a lost or stolen SSN card, and reporting a lost or stolen SSN card to SSA will not prevent the misuse of an individual’s SSN. However, a person using an individual’s SSN can get other personal information about that individual and apply for credit in that individual’s name. So, if the tenant suspects someone is using his/her SSN, s/he should check their Social Security records to ensure their records are correct (call SSA at (800) 772-1213); file an identity theft complaint with the local police department and/or Federal Trade Commission (call FTC at (877) 438-4338, or visit their website at: [http://www.ftc.gov/bcp/edu/microsites/idtheft/](http://www.ftc.gov/bcp/edu/microsites/idtheft/); and s/he should also monitor their credit reports with the three national credit reporting agencies (Equifax, TransUnion, and Experian). The tenant should provide the PHA written documentation of filed identity theft complaint. (Refer back to paragraph on Employment and wage information regarding disputed EIV information related to identity theft).

Tenants may request their credit report and place a fraud alert on their credit report with the three national credit reporting agencies at: [www.annualcreditreport.com](http://www.annualcreditreport.com) or by contacting the credit reporting agency directly. Each agency’s contact information is listed below.
National Credit Reporting Agencies Contact Information

Equifax Credit Information Services, Inc.
P.O. Box 740241
Atlanta, GA 30374
Website: www.equifax.com
Telephone: (800) 685-1111

Experian
P.O. Box 2104
Allen, TX 75013
Website: www.experian.com
Telephone (888) 397-3742

TransUnion
P.O. Box 6790
Fullerton, CA 92834
Website: www.transunion.com
Telephone: (800) 680-7289 or (800) 888-4213

Security of EIV Data. The data in EIV contains personal information on individual tenants which is protected under the Federal Privacy Act. The information in EIV may only be used for limited official purposes, as noted below.

Official Purposes Include:

1. PHAs, in connection with the administration of PIH programs, for verifying the employment and income at the time of interim and annual reexaminations.
2. HUD staff for monitoring and oversight of PHA compliance with HUD program requirements.
3. Independent Auditors hired by the PHA or HUD to perform a financial audit for use in determining the PHA’s compliance with HUD program requirements, including verifying income and determining the accuracy of the rent and subsidy calculations.

Restrictions on disclosure requirements for Independent Auditors:

(a) May only access EIV income information within family files and only within the offices of the PHA or PHA-hired management agent;

(b) May not transmit or transport EIV income information in any form;

(c) May not enter EIV income information on any portable media;

(d) Must sign non-disclosure oaths that the EIV income information will be used only for the purpose of the audit; and
(e) May not duplicate EIV income information or re-disclose EIV income information to any user not authorized by Section 435(j)(7) of the Social Security Act to have access to the EIV income data.

B. Official Purposes Does NOT Include:

1. Sharing the information with governmental or private entities not involved in the reexamination process specifically used for PIH rental assistance programs. Disclosing the EIV information to other private or public entities for purposes other than determining eligibility and level of assistance for PIH rental assistance programs is prohibited since these entities are not a party to the computer matching agreements with the HHS and SSA. The fact that these entities may find the EIV beneficial for similar eligibility and determination purposes for other low-income housing programs or public benefits, does not permit these entities to use or view information in the EIV system that is covered by the computer matching agreements.

The computer matching agreements are governed by the Privacy Act and the Social Security Act. Specifically, sections 453(j)(7)(E)(ii) and (iv) of the Social Security Act (42 USC §653j) limit disclosure of the data matched between HUD and HHS' National Directory of New Hires (NDNH) database to PHAs, Independent Auditors, the Inspector General (IG) and Attorney General, private owners, management agents, and contract administrators of Multifamily Housing programs.

C. Penalties for Willful Disclosure or Inspection of EIV Data.

1. Unauthorized Disclosure – felony conviction and fine up to $5,000 or imprisonment up to five (5) years, as well as civil damages.

2. Unauthorized Inspection – misdemeanor penalty of up to $1,000 and/or one (1) year imprisonment, as well as civil damages.

M. Penalties for Noncompliance with Mandated EIV System Use. PHAs may be subject to sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculation or both. It should be noted that HUD may impose a sanction on any PHA who does not have access to the EIV system or the PHA has access to the system, however, has not used the system within the last six months. To avoid sanctions or disallowed costs, PHAs should follow all formal and informal guidance provided to PHAs via webcast trainings, PIH Rental Housing Integrity Improvement Project (RHIIP) periodic electronic mailings, and any other HUD Headquarters'-generated guidance.

EIV System Tip Sheets (ETS). PHAs are required to comply with guidance provided via ETS and HUD Headquarters-sponsored EIV training, via webcast and satellite. PIH will also post ETS to the PIH RHIIP technical assistance web pages at: http://www.hud.gov/offices/pih/programs/ph/rhiip/training.cfm, and send via email to all subscribers of the PIH RHIIP mailing list. ETS is designed to explain effective use of the EIV system to ensure PHAs’ compliance with the third party verification requirements and reduce administrative and subsidy payment errors, so that PHAs may avoid penalties for failure to use the EIV system in its entirety.
N. EIV System Training Information. As a condition of initial and continued access to the EIV System, HUD and PHA staff are required to complete Annual Security Awareness training and EIV system training (initial (complete system training) and update (interim system changes) training) when offered by HUD Headquarters (HHQ). This training requirement also applies to those individuals who will not access EIV, but will view or handle printed and/or electronic EIV data. Individuals who will view and/or handle printed EIV information are required to complete only annual Security Awareness training (EIV system training is optional for these individuals). EIV training provided by third parties (other than HUD Headquarters) does not fulfill the mandatory EIV training requirement.

HHQ offers training in Washington, DC and via webcast at least once a year. EIV system users who need to complete EIV training may view EIV training webcasts at: http://www.hud.gov/webcasts/archives/iv.cfm. HUD offers a Certificate of Completion for a period of six months following the broadcast date, for those who desire confirmation of completed training.

However, it should be noted that a certificate is not required in order for an individual to be granted access to the EIV system or be certified for continued EIV system access. The most recent PIH RHIIP/EIV training was held on January 28, 2010. EIV system users may request a Certificate of Completion for this training through October 30, 2010.

Training information is posted at the following websites: http://www.hud.gov/offices/pih/programs/ph/rhiip/training.cfm and is emailed to all subscribers of the PIH RHIIP mailing list. To subscribe to this mailing list, paste the following URL into your browser, enter your email address, and click OK: http://www.hud.gov/subscribe/signup.cfm?listname=Public%20and%20Indian%20Housing%20Rental%20Housing%20Integrity%20Improvement%20Project&list=PIH-RHIIP-L


EIV system users must complete HHQ-offered training as follows:

<table>
<thead>
<tr>
<th>Training Offered</th>
<th>Training Must be Completed By</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 1st – March 31st</td>
<td>April 29th</td>
</tr>
<tr>
<td>April 1st – September 30th</td>
<td>October 30th</td>
</tr>
</tbody>
</table>

New employees, who begin employment after March 31st, are required to complete the training by October 30th.

New employees, who begin employment after September 30th, are required to complete the training by April 29th, of the following year.

Note: Employees must complete the training prior to accessing the EIV system and/or printed EIV reports.
O. **Updating of PHA Policies and Procedures.** PHAs are required to immediately implement all new and modified regulatory requirements of the *Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System-Amendments.*

The Department recognizes that many PHAs have already begun to modify existing policies and procedures to reflect use of EIV during all mandatory annual and interim reexams. PHAs should immediately update their policies and procedures to reflect these new regulatory provisions.

P. **Notice to Applicants and Tenants.** PIH is providing PHAs with the attached EIV system information guide that PHAs may provide to applicants and tenants of PIH rental assistance programs. PHAs are **not** required to distribute this document. However, PHAs are strongly encouraged to provide applicants and tenants with the *What You Should Know About EIV Guide* to educate families about EIV and inform them of how it affects their family.

There are two versions of the document: 1) with a signature block; and 2) without a signature block. HUD does not require applicants or tenants to acknowledge receipt of the document; however, PHAs may, at their discretion, require the family to acknowledge receipt of the guide. If your PHA will require families to acknowledge receipt of the guide, provide the family with a copy of the guide to take with them, and maintain a signed copy in the family file folder.

The guide is a two page document or one double-side printed document. To print the file on one page (if your printer has two-sided printing capability), select *Print Properties* when printing the document, select **2-Sided Print, Flip on Short Edge**, and then print. This document is not available for ordering from HUD. Simply click and print the guide.

Currently, the guide is only available in English, however, in the future; HUD may make this document available in other languages. As a subscriber to the PIH RHIIP mailing list, you will automatically receive the guide in other languages, when they become available.

**Tip:** Print on color paper to add a little flare!
Q. **Rental Housing Integrity Improvement Project (RHIIP)/EIV Resources.** For your convenience, PIH EIV information is available on the web at the below listed URLs. Many of your questions can be answered by viewing information that is posted on the HUD web pages. Bookmark these pages:

**Overview of Upfront Income Verification (UIV)**


**Subscribe to PIH RHIIP Mailing list:** [http://www.hud.gov/subscribe/signup.cfm?listname=Public%20and%20Indian%20Housing%20Rent%20al%20Housing%20Integrity%20Improvement%20Project&list=PIH-RHIIP-L](http://www.hud.gov/subscribe/signup.cfm?listname=Public%20and%20Indian%20Housing%20Rent%20al%20Housing%20Integrity%20Improvement%20Project&list=PIH-RHIIP-L)


R. **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 USC §3520) and assigned OMB control number(s) 2577-0083 and 2577-0266. 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. **For inquiries about this Notice contact:** the designated EIV Coordinator in the local HUD field office or Nicole Faison of HUD Headquarters’ Office of Public and Indian Housing at (202) 475-7949, or via email at PIH.RHIIP.TA@HUD.GOV.

Attachments:
2. **What You Should Know About EIV Guide** (with signature block)
3. **What You Should Know About EIV Guide** (without signature block)
Exhibit 7-2: Summary of Documentation Requirements for Noncitizens
[HCV GB, pp. 5-9 and 5-10]

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

### Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

### All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

<table>
<thead>
<tr>
<th>Documents Required</th>
<th>Acceptable USCIS Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form I-551</td>
<td>Alien Registration Receipt Card (for permanent resident aliens)</td>
</tr>
<tr>
<td>Form I-94</td>
<td>Arrival-Departure Record annotated with one of the following:</td>
</tr>
<tr>
<td></td>
<td>• “Admitted as a Refugee Pursuant to Section 207”</td>
</tr>
<tr>
<td></td>
<td>• “Section 208” or “Asylum”</td>
</tr>
<tr>
<td></td>
<td>• “Section 243(h)” or “Deportation stayed by Attorney General”</td>
</tr>
<tr>
<td></td>
<td>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</td>
</tr>
<tr>
<td>Form I-94 (with annotation)</td>
<td>A final court decision granting asylum (but only if no appeal is taken);</td>
</tr>
<tr>
<td></td>
<td>A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</td>
</tr>
<tr>
<td></td>
<td>A court decision granting withholding of deportation; or</td>
</tr>
<tr>
<td></td>
<td>A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</td>
</tr>
<tr>
<td>Form I-688</td>
<td>Temporary Resident Card annotated “Section 245A” or “Section 210”.</td>
</tr>
<tr>
<td>Form I-688B</td>
<td>Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</td>
</tr>
</tbody>
</table>

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.
Chapter 8—Housing Quality Standards and Rent Reasonableness Determinations
[24 CFR 982 Subpart I and 24 CFR 982.507]

Introduction

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires the PHA to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

- **Part I. Physical Standards.** This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

- **Part II. The Inspection Process.** This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

- **Part III. Rent Reasonableness Determinations.** This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.
Part I: Physical Standards

8-I.A. General HUD Requirements

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.
**Modifications to Provide Accessibility**

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the owner/property manager may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.[24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

**CHA Policy**

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the CHA for review.

**8-I.B. Additional Local Requirements**

The PHA may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the PHA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

**Thermal Environment [HCV GB p.10-7]**

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

**CHA Policy**

The heating system must be capable of maintaining a minimum interior temperature of 68 degrees Fahrenheit in all interior rooms used for living between September 15th and June 1st

If the heating systems of a building with four or more dwelling units has been subject to a CHA HQS inspection within the preceding 12 months of the current inspection and such inspection passed, or was found to be in compliance, and documentation is on file and available for review by the inspector demonstrating current compliance with HQS requirements, then the boiler room or other common heating systems may be considered HQS compliant without further inspection being necessary.

CHA will inspect the heating plant for an HCV assisted unit where the HCV participant has forwarded a complaint about insufficient heat, regardless of whether the heating system was previously inspected and approved by CHA.
Clarifications of HUD Requirements

CHA Policy

As permitted by HUD, the CHA has adopted the following specific requirements that elaborate on HUD standards:

Windows and Doors

Windows and doors are required to be weather-tight.

Bedrooms

The following minimum standard must be met:

Square Footage

Every bedroom shall contain at least 70 square feet of floor space

Ceiling Height

Three-quarters (75%) of every bedroom must have a floor-to-ceiling height of 7 feet or above.

Carbon Monoxide Detectors

In concurrence with the 2008 Chicago Building Code Requirement, carbon monoxide detectors must be located within 15 feet of a fossil fuel burning system and within 15 feet of any area used for sleeping purposes.

Smoke Detectors

At least one smoke detector must be installed on every level that contains a habitable room or a heating plant. In addition, a smoke detector must be installed within 15 feet of any area used for sleeping purposes.

Entrance Door Locks

The CHA has adopted the Chicago Building Code Requirement for deadbolt locks on every dwelling unit entrance door. Double-keyed deadbolts are not allowed.

Locks operated with skeleton keys are not allowed on any dwelling unit or building entrance or exit door.

All dwelling unit entrance and exit doors must have a single cylinder deadbolt (a deadbolt that does not require a key to be operated from the interior of the unit).
8-I.C. Life Threatening Conditions  
[24 CFR 982.404(a)]

HUD requires the PHA to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of the PHA notification date. (See 8-II.F.)

**CHA Policy**

The following are considered emergency fail items because of life threatening conditions:

- Any property determined uninhabitable by a city agency, including uninhabitable units due to fire, flood, or other natural disasters
- Any condition that jeopardizes the security of the unit (e.g., missing or broken locks on exterior doors)
- Major plumbing leaks, waterlogged ceiling, or floor in imminent danger of falling
- Natural or LP gas leaks or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a heating system capable of maintaining a minimum of 55 degrees Fahrenheit between September 15th and June 1st.
- Utilities (i.e., gas, electric, or water) not in service
- Conditions that present the imminent likelihood of injury
- Unmovable obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Backed up sewer system in the unit
- Lack of at least one working smoke detector on each level of the unit.
- Lack of a working carbon monoxide detector in an area with fossil fuel burning system and on each level used for sleeping

If an owner fails to correct life threatening conditions as required by the CHA, the housing assistance payment will be abated and the HAP contract will be terminated according to 8-II.G.

If a family fails to correct a family caused life threatening condition as required by the CHA, the CHA may terminate the family’s assistance according to 8-II.H.
8-I.D. Owner and Family Responsibilities
[24 CFR 982.404]

Family Responsibilities
The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which the owner could not assess against the tenant's security deposit under state law or court practice.

Owner Responsibilities
The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation).

8-I.E. Special Requirements for Children with Environmental Intervention Blood Lead Level
[24 CFR 35.1225]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the PHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

The PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I.F. Violation of HQS Space Standards
[24 CFR 982.403]

If the PHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the PHA will issue the family a new voucher, and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.
of City of Chicago Building Code

If the CHA is notified by the City of Chicago that a property leased under the HCV program does not meet the local building code, the CHA will consider the unit as failing HQS. In such cases, the owner will be notified to make the necessary repairs in accordance with the provisions of this chapter. Owner failure to make the necessary repairs will result in termination of the HAP Contract.

Part II: The Inspection Process

8-II.A. Overview
[24 CFR 982.405]

Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- **Initial Inspections.** The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.

- **Annual Inspections.** HUD requires the PHA to inspect each unit under lease at least annually to confirm that the unit still meets HQS.

- **Special Inspections.** A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.

- **Quality Control Inspections.** HUD requires that a sample of units be reinspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

**Inspection of PHA-owned Units**
[24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction.

**Inspection Costs**

The PHA may not charge the family or owner for initial inspection or re-inspection of the unit [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].
Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

**CHA Policy**

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, the CHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

**CHA Policy**

When a family occupies the unit at the time of inspection an adult must be present for the inspection. The presence of the owner or the owner’s representative is encouraged but is not required unless the inspection is an owner-initiated Special inspection, in which case, the owner or the owner’s representative must attend.

At initial inspection of a vacant unit, the CHA will inspect the unit in the presence of the owner or owner’s representative. The presence of a family representative is permitted, but is not required.

8-II.B. Initial HQS Inspection

[24 CFR 982.401(a)]

**Timing of Initial Inspections**

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. For PHAs, such as CHA, with 1,250 or more budgeted units, to the extent practicable, the initial inspection and suitability determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

**CHA Policy**

To the extent practicable, the CHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 calendar days after both of the following conditions are met:

- The CHA receives the completed Request for Tenancy Approval (RFTA)
- The property is available and ready for inspection

Cases where the CHA is not able to complete the inspection within these guidelines will be documented as to the reason it was not practicable.

The CHA, upon receiving MTW Authority and in accordance with the CHA HQS Guidebook, may utilize a passed HQS inspection for the same unit within the last 90 days (including a passed annual inspection) to move a family into the unit.
Inspection Results and Re-inspections

CHA Policy

The CHA will notify the owner in writing of any deficiencies identified during an inspection within 7 calendar days. When the deficiencies are corrected, the owner will contact CHA by phone to schedule a re-inspection. Only the owner can request an Initial re-inspection. CHA will conduct this re-inspection within 7 calendar days of the owner’s request.

If the owner does not schedule a re-inspection for any 14-calendar day period during the inspection phase, the CHA will terminate the inspection process and issue new moving papers to the tenant. Exceptions to the termination of the inspection process may be granted for reasonable accommodation for a person with a disability and Public Housing relocation purposes. The CHA will notify the owner and the family in writing that the unit has been rejected.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

CHA Policy

All utilities must be in service to conduct an initial inspection.

Appliances

CHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the CHA will allow the stove and refrigerator to be placed in the unit after the initial inspection met all other HQS requirements. The required appliances must be in place before executing the HAP contract. The CHA will execute the HAP contract if the family provides certification that the appliances are installed and are working.

8-II.C. Annual HQS Inspections

[24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have an Annual inspection completed no more than 365 days from the initial or last annual inspection.

CHA Policy

The CHA conducts an inspection for compliance with HQS every 365 days from the date of the initial or last completed annual inspection. If an adult cannot be present on the scheduled date, the family should request that the CHA reschedule the inspection. The CHA allows the family to reschedule an Annual inspection one time for up to seven calendar days after the originally scheduled inspection.

If the family fails to ensure that an adult attends the first scheduled appointment or a rescheduled inspection, the CHA will automatically schedule a second attempt inspection. If the family misses two scheduled inspections without the CHA approval, the CHA will consider the family in violation of its obligation to make the unit available for inspection and will issue the family an Intent to Terminate (ITT) notice. This may result in termination of the family’s assistance in accordance with Chapter 12.
8-II.D. Special Inspections
[HCV GB, p. 10-30]

Owners participating in the program or voucher program participants may request that the CHA or its contractor conduct a complaint inspection because of an emergency HQS fail item as identified by the Housing Quality Standards and the CHA Administrative Plan.

**CHA Policy.**

The CHA will only conduct a special inspection if the owner or family requests that the CHA conduct an inspection because of an emergency HQS fail item in the unit.

If the reason identified for a complaint inspection is not an emergency HQS fail item as identified in paragraph 8-I.C, Life Threatening Conditions, above, the CHA or its contractor will not conduct the inspection and will advise the caller that the item will be inspected during the next annual inspection. If the caller is the family, the CHA or its contractor will advise the family to contact the owner/property manager to request that the owner/property manager make the necessary repairs.

The CHA or its contractor will not schedule or perform a complaint inspection unless the party that requests the complaint inspection (owner, owner’s agent, or the voucher program participant) is present for the inspection. The CHA or its contractor will not perform a follow up inspection after a missed complaint inspection appointment. If the family requests an inspection and is not present due to unavoidable circumstances, the family may request another inspection. The CHA or its contractor will evaluate the circumstances and determine on a case-by-case basis whether to schedule a new complaint inspection.

The inspector will conduct the complaint inspection within one day of receipt of the telephone call, fax or other CHA notification. During a special inspection, the CHA or its contractor will inspect only those emergency fail items that were reported.

If the caller states that the utilities are not turned on, the inspector will inquire as to who is responsible for the utility. If the owner is responsible for the utility, the inspections staff will contact the owner and notify the owner that the unit fails HQS. If the family is responsible for the utility, it will be treated as a family-caused HQS fail. The inspection staff will call the complaining party within one day to determine if the utilities are on. If the utility is not on and the utility is the responsibility of the owner, the CHA will abate the HAP for the unit. If the utility is the responsibility of the tenant, the CHA will treat it as a family-caused HQS fail and begin termination of assistance procedures.

If the caller identified lack of heat as the complaint item and the utility has not been turned off, an emergency fail item inspection will be conducted pursuant to its meeting the criteria defined as an emergency fail.

If based on the complaint inspection the unit does not meet the HQS, the CHA staff or its contractor must notify the owner that the unit failed the inspection and is not eligible for continued assistance unless specific repairs are made within 24 hours of the notification date by the CHA staff or its contractor for emergency fail items.
The CHA staff or its contractor must provide the owner with a copy of the inspection form or notification with the failed items listed that identifies the reasons that the unit failed, establishes a date for the CHA staff or its contractor to re-inspect the unit, and advises the owner that if the owner does not make the necessary repairs within 24 hours of the notification date by the CHA staff or its contractor, the CHA will stop payment to the owner on the first of the month following the end of the repair period deadline.

8-II.E. Quality Control Inspections
[24 CFR 982.405(b); HCV GB, p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8-II.F. Inspection Results and Re-inspections for Units Under HAP Contract

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

CHA Policy

When life threatening conditions are identified, the CHA will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the date of the CHA’s notice.

When failures that are not life threatening are identified, the CHA will send the owner and the family a written notification of the inspection results within 7 calendar days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, 30 calendar days from the date of the inspection that identifies the failures are allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours and non-life threatening conditions are not corrected within the specified time frame (or any CHA-approved extension), the owner’s HAP will be abated in accordance with the CHA policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any CHA-approved extension, if applicable) the family’s assistance will be terminated in accordance with the CHA policy (see Chapter 12).

For non-life threatening emergencies, the CHA may accept written certification, in lieu of performing a re-inspection, as proof that the required repairs have been made. Parameters for the use of a written certification shall be in accordance with the CHA HQS Guidebook. CHA reserves the right to conduct an inspection, notwithstanding the owner or landlord’s certification, where the family forwards a written certification that the corrective action was not completed as required by CHA.
Extensions

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening or lead-based paint, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

**CHA Policy**

Extensions will be granted in cases where the CHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner’s control. The owner’s request for an extension must be made in writing to the CHA. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 30 calendar days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days after the weather conditions have subsided.

Re-inspections

**CHA Policy**

To confirm HQS repairs, the CHA conducts re-inspections. For repairs that are the owner’s responsibility, the owner must notify the CHA of repairs that have been completed. If such repairs have not been made or if the re-inspection cannot be completed before the end of the correction period, for any reason, the CHA will make the abatement effective the first of the month following the expiration of the CHA specified correction period (including any extension).

In the case of family caused violations, CHA will send an Intent to Terminate (ITT) notice to the family. If the CHA is unable to gain entry to the unit in order to conduct the scheduled re-inspection, the CHA will consider the family to have violated its obligation to make the unit available for inspection and will issue the family an Intent to Terminate (ITT) notice. This may result in termination of the family’s assistance in accordance with Chapter 12.

Where inspection deficiencies are the owner’s responsibility, the CHA will charge the owner a non-refundable $75 fee for conducting a 2nd re-inspection. The $75 must be paid to the CHA prior to scheduling the second re-inspection by money order or other approved method such as a secure electronic credit process. The CHA requires that owner or an authorized representative of the owner participate in such re-inspections.

**8-II.G. Enforcing Owner Compliance**

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.
HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family’s responsibility.

CHA Policy

The CHA will make all HAP abatements effective the first of the month following the expiration of the CHA specified correction period (including any extension).

The CHA will inspect abated units within 7 calendar days of the owner’s notification that the work has been completed. This inspection will not take place if the HAP Contract has been terminated. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

CHA Policy

The maximum length of time that a HAP may be abated is 60 calendar days. However, if the owner completes corrections and notifies the CHA before the termination date of the HAP contract, the CHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the CHA is 30 calendar days.

If the owner does not make the necessary corrections by the end of the abatement period, the CHA will send a notice of HAP termination to the owner and a notice to the family that the HAP contract is being terminated. Once the termination goes into effect, the CHA will not rescind it.

If the HAP for a unit is abated three or more times during a five year period, the CHA may terminate the contract and will consider terminating the owner’s participation in the program.

The abatement shall be lifted effective the date the CHA is able to verify the repairs have been made. If an owner provides acceptable documentation of the date of the repairs, the abatement can be lifted effective the date the repairs were made. If the owner pays the re-inspection fee, and the unit passes its re-inspection, the abatement can be lifted retroactive to the date the fee was paid.
8-II.H. Enforcing Family Compliance with HQS
[24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family’s assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

Part III: Rent Reasonableness
[24 CFR 982.507 and Notice PIH 2009-51]

8-III.A. Overview

The PHA cannot approve a HAP contract until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that the PHA pays a fair rent is paid for each property in the unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

Note: An assisted unit is a unit that is assisted under a federal, state, or local government program.

PHA-owned Units
[24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction.
8-III.B. When Rent Reasonableness Determinations Are Required

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

**CHA Policy**

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner’s lease but may only request a rent increase once in a 365 day period. For rent increase requests after initial lease-up, the CHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than four (4) units. In evaluating the proposed rents in comparison to other units on the premises the CHA will consider any rent setting policies by the owner for existing tenants, in addition to unit size and length of tenancy in the other units.

The CHA will determine whether the requested increase is reasonable within 10 calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will become effective on the later of the following dates:  the first of the month that begins 60 or more calendar days after the CHA receives the owner’s request or on the date specified by the owner.

To dispute the market comparability analysis of a rent determination request the owner may appeal the rent reasonableness determination by submitting any additional market data to the CHA within 30 calendar days of the date of the results notification letter.

The CHA will verify the accuracy of this data and, if applicable, recalculate the rent reasonableness determination. The CHA will notify the owner of the results of this rent reasonableness determination within 15 calendar days after receiving the additional data.

**PHA- and HUD- Initiated Rent Reasonableness Determinations**

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. The PHA must re-determine the reasonable rent if directed by HUD. In addition, the PHA may also re-determine the reasonable rent at any other time.

**CHA Policy**

In addition to the instances described above, the CHA will make a determine of rent reasonableness at any time after the initial occupancy period, if: (1) the CHA determines that the initial rent reasonableness determination was in error or (2) the CHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.
8-III.C. Establishing Comparability

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the comparison units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of units
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance, and improvements made.
- Amenities, services, and utilities included in the rent

Units that May Not Be Used as Comparable

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that impose rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs:

- Section 8 property-based assistance,
- Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects
- HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized
- Units subsidized through federal, state, or local tax credits
- Units subsidized by the Department of Agriculture rural housing programs
- Units that are rent-controlled by local ordinance.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself about the rent charged for other unassisted comparable units on the premises if the premises include more than four (4) units.

As in the case of some housing conversion actions, units for which an owner has decided to charge rents that are below what other tenants are charged and what the market might actually bear are not “assisted” units for the purposes of rent reasonableness determinations. These units must be taken into consideration as unassisted comparable units on the premises [Notice PIH 2009-51].

In addition, the PHA must take into consideration any actions that reduce the true value of rents charged by the owner for unassisted comparable units on the premises when determining rent reasonableness, including “rent back,” free rent for some months, or other types of subsidy from the owner.

In the case of a family moving into a multifamily property, the PHA may choose to only consider the most recent rentals in determining the rents that the owner is charging for comparable unassisted units.

**CHA Policy**

In the case of a family moving into a multifamily property, the CHA will only consider units leased within the past two years in determining the rents that the owner is charging for comparable unassisted units.
By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

8-III.D Rent Reasonableness Determination Methodology

Overview

**CHA Policy**

According to HUD, the objective of the rent reasonableness program is to ensure that program rents do not exceed unassisted rental values for the City of Chicago housing market.

To meet this objective, the CHA employs the unit-to-unit comparison method to make rent reasonableness determinations, taking into consideration unit age, location, condition, market area, structure type, and amenities. A unit-to-unit comparison is similar to the real estate appraisal method, in which the program unit rent is directly compared to the rents for one or more unassisted units selected as comparables. The CHA may also make adjustments based on a property’s curb appeal.

**Market Data Collection and Maintenance**

**CHA Policy**

The CHA will collect and maintain a sufficient database of unassisted market rent data to perform rent reasonableness determinations. The CHA will update this data continuously and not use market data that has not been verified within the previous twelve (12) months. The CHA will collect and maintain a large enough sample of comparable units and enough unit-specific data (unit age, location, condition, market area, structure type, and amenities) to ensure that the rent reasonableness determinations are accurate. Potential data sources include traditional print media (newspapers, marketing material, etc), local real estate publications and listings, appropriate market surveys, inquiries of owners, web-based data sources (rent.com, apartment.com, Craigslist, etc) and any other source determined to be accurate and documentable. The rent reasonableness process will make appropriate rental rate adjustments for rental concessions (if applicable) and utility rates and responsibilities.

8-III.E. REQUIRED RENT DETERMINATION DOCUMENTATION

PHAs are required to maintain copies of key documents in the participant files. The documents relevant to the process of determining rent reasonableness include:

- Request for Tenancy Approval (HUD-52517)
- Written request by owner for rent increase
- The PHA’s rent reasonableness certification form including staff signature(s) and date
- Appropriate Utility Allowance Schedule (HUD-52667 or facsimile) for the subject unit
- HAP Contracts and Unit Leases and amendments
- Form HUD-50058 or facsimile
- Copies of correspondence and file notes
- HQS (Housing Quality Standards) inspection report (HUD-52580)
Exhibit 8-1: Overview of HUD Housing Quality Standards

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants’ health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.
Water Supply
The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint
Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- Provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices as defined in the Lead-Based Paint regulation (24 CFR Part 35)
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access
Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood
The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition
The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors
Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Health/Safety
The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family’s health and safety.
Exhibit 8-2: Summary of Tenant Preference Areas Related to Housing Quality

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- **Sanitary Facilities.** The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.

- **Food Preparation and Refuse Disposal.** The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.

- **Space and Security.** The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.

- **Energy conservation items.** The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.

- **Illumination and Electricity.** The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

(6) **Structure and Materials.** Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

(7) **Indoor Air.** Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family’s needs. However, if screens are present they must be in good condition.

(8) **Sanitary Conditions.** The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) **Neighborhood conditions.** Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.
Chapter 9—General Leasing Policies

Introduction

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]
9-I.A. Tenant Screening

The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA’s policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager of their responsibility to comply with VAWA. [Pub.L. 109-162]

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records); and the name and address (if known to the PHA) of the owner/property manager at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA’s possession about the family’s tenancy [24 CFR 982.307(b)(2)].

The PHA’s policy on providing information to the owner must be included in the family’s briefing packet [24 CFR 982.307(b)(3)].

CHA Policy

The CHA will not screen applicants for family behavior or suitability for tenancy on behalf of the owner. The determination on whether an assisted family meets the tenancy requirements is the owner's responsibility.

The CHA will not provide additional screening information to the owner. The CHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before.

9-I.B. Requesting Tenancy Approval

[Form Hud-52517]

After the family is issued a voucher, the family must locate an eligible unit. Once a family finds a suitable unit, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.
Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

**CHA Policy**

The RTA must be signed by both the family and the owner.

The owner may submit the RTA on behalf of the family.

Completed RTA must be submitted as hard copies, in-person, by mail, or by fax.

The family may not submit, and the CHA will not process, more than one (1) RTA at a time.

When the family submits the RTA the CHA will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), the CHA will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax.

Because of the time sensitive nature of the tenancy approval process, the CHA will attempt to communicate with the owner and family by phone, fax, or email. The CHA will use mail when the parties cannot be reached by phone, fax, or email.

**9-I.C. Owner Participation**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, property tax delinquency conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

**9-I.D. Eligible Units**

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA’s jurisdiction. This includes the dwelling unit they are currently occupying.
Ineligible Units
[24 CFR 982.352(a)]

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving property-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

**CHA Policy**

The CHA may limit the amount of subsidy provided to a single property in the CHA mixed-income properties so that the total number of subsided units does not exceed 40 percent. The 40 percent cap applies to the CHA’s mixed-income developments that include public housing units and properties under a CHA project-based voucher contract. Senior and supportive housing developments are exempt from this provision.

PHA-Owned Units
[24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the PHA may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

**CHA Policy**

The CHA has eligible CHA-owned units available for leasing under the voucher program.

The CHA will inform the family of this housing at the time of the briefing. The CHA will also inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a CHA-owned unit without any pressure or steering by the CHA.

Special Housing Types
[24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.
Duplicative Assistance

[24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS)

[24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.
Rent Reasonableness
[24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden
[24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family’s share of rent does not exceed 40 percent of the family’s monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. Lease and Tenancy Addendum

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum
[24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the PHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

CHA Policy

The CHA does not provide a model or standard dwelling lease for owners to use in the HCV program. The CHA encourages owners to use a City of Chicago standard lease form approved by the Chicago Realtor's Association, or other approved form containing the Chicago Residential Landlord and Tenant Ordinance Summary, Chicago Municipal Code 5-12-170 et seq.
Lease Information
[24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

CHA Policy

The CHA will not approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit
[24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

CHA Policy

The property owner may not collect a security deposit in excess of private market practices.

The security deposit must be in accordance with the Chicago Tenant-Landlord Ordinance.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the PHA’s housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].
CHA Policy

The CHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are **not** customarily provided to unassisted families as part of the dwelling lease with those families, are **not** permanently installed in the dwelling unit and where the family has the sole option of **not** utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

PHA Review of Lease

The PHA will review the dwelling lease for compliance with all applicable requirements.

CHA Policy

If the dwelling lease is incomplete or incorrect, the CHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. Because the initial leasing process is time-sensitive, the CHA will attempt to communicate with the owner and family by phone, fax, or email. The CHA will use mail when the parties cannot be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

CHA Policy

The CHA will **not** review the owner’s lease for compliance with state/local law. It is the owner’s responsibility to comply with state/local law when leasing units on the owner’s property.
9-I.F. Tenancy Approval
[24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

CHA Policy

The CHA will complete its determination within ten (10) calendar days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the CHA, the CHA will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax.

If the CHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The CHA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the CHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.
9-I.G. HAP Contract Execution

[24 CFR 982.305]

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void, and the PHA may not pay any housing assistance payment to the owner.

**CHA Policy**

Owners who have not previously participated in the HCV program must attend a meeting with the CHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. The CHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the CHA. The CHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the CHA will execute the HAP contract. The CHA will not execute the HAP contract until the owner has submitted IRS form W-9, the direct deposit form, and the owner’s email address. The CHA will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.
9-I.H. Changes in Lease or Rent  
[24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. Any lease changes proposed by either the tenant or the owner that require execution of a new HAP contract, as specified below, cannot take effect until a new HAP contract is executed by the PHA and the owner.

The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, the PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the PHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

**CHA Policy**

Where the owner is requesting a rent increase, the CHA will determine whether the requested increase is reasonable within ten (10) calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies the CHA of the rent change or on the date specified by the owner, whichever is later.
Chapter 10—Moving with Continued Assistance and Portability

Introduction

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA’s jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA’s HCV program, whether the family moves to another unit within the PHA’s jurisdiction or to a unit outside the PHA’s jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA’s jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

Part I: Moving with Continued Assistance

10-I.A. Allowable Moves

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner’s breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].

- The Violence Against Women Reauthorization Act of 2005 provides that “a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit” [Pub.L. 109-162].

- The lease for the family’s unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

**CHA Policy**

If the family and the owner mutually agree to terminate the lease for the family’s unit, the family must give the CHA a copy of the termination agreement within 10 calendar days of the execution of the agreement and prior to the termination date of the lease.
• The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)] within 10 calendar days of the receipt of the eviction notice.

• The PHA has terminated the assisted lease for the family’s unit for the owner’s breach [24 CFR 982.314(b)(1)(i)].

• The PHA determines that the family’s current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family’s old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. Restrictions on Moves

A family’s right to move is generally contingent upon the family’s compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which the PHA may deny a family permission to move and two ways in which the PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

CHA Policy

The CHA will deny a family permission to move on grounds that the CHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the CHA; (b) the CHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the CHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the CHA’s jurisdiction as well as to moves outside it under portability.

The CHA, prior to denying a portability move because it does not have sufficient funding, will contact the receiving PHA and confirm that the receiving PHA will not absorb the family. If the receiving PHA will absorb the family, the CHA will approve the move under portability.

If the CHA denies a move under portability because it does not have sufficient funding, the CHA will promptly notify the family (assuming the family is still a participant in the CHA HCV program) once there is sufficient funding to support the family’s move.
**Grounds for Denial or Termination of Assistance**

The PHA has grounds for denying or terminating the family’s assistance [24 CFR 982.314(e)(2)]. VAWA allows an exception to these grounds for denying or terminating assistance for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit. [Pub.L. 109-162]

**CHA Policy**

In determining whether to deny permission to move, the CHA will consider the criteria under federal regulations at 24 CFR 982.552(c)(1). These include:

The family has violated any family obligations under the program.

The family is currently under an Intent to Terminate (ITT).

Any member of the family has been evicted from federally assisted housing in the last five years.

A PHA has ever terminated assistance under the program for any member of the family.

Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program (see also 24 CFR 982.553(a)(1))

The family currently owes rent or other amounts to the CHA or to another PHA in connection with subsidized housing, including Section 8 or public housing assistance under the 1937 U.S. Housing Act.

The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family breaches an agreement with the CHA to pay amounts owed to a PHA or amounts paid to an owner by a PHA. (The CHA, 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 CHA may prescribe the terms of the agreement.)

The family has engaged in or threatened abusive or violent behavior toward CHA personnel, its agents and/or contractors.

The family has been engaged in criminal activity or alcohol abuse as described in 24 CFR 982.553 and more specifically described in Chapter 3 Section 3-III C.

Any member of the family is or becomes subject to a registration requirement under any State sexual offender registration program in the state where the housing is located and in other states where the household is known to have lived, including the ten (10) year Illinois State Sex-Offender Registration Statute.

The CHA will also consider the same extenuating circumstances as would be considered when determining whether to deny or terminate assistance under 24 CFR 982.552(c)(2). These include:
The CHA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

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

In determining whether to deny a move for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the CHA will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the CHA may require the applicant or tenant to submit evidence of the household member’s current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

If the family includes a person with disabilities, the CHA’s decision concerning such action is subject to consideration of reasonable accommodation in accordance with 24 CFR 8.

The CHA’s admission and eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

**Restrictions on Elective Moves**

[24 CFR 982.314(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family’s initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period.

**CHA Policy**

The CHA will deny a family permission to make an elective move during the family’s initial lease term. This policy applies to moves within the CHA’s jurisdiction or outside it under portability.

The CHA will deny a family permission to make an elective move if the family has been issued an Intent to Terminate (ITT). The family must go through the hearing process, if requested by the family, and the decision must be overturned before the move is approved by the CHA.

The CHA will withdraw a voucher, at any time during the term of the voucher, if the CHA is made aware of any violations of family obligations or other reasons that result in an Intent to Terminate (ITT). The family must go through the hearing process, if requested by the family, and the decision must be overturned before the move is approved by the CHA. The CHA will limit the times the CHA will issue moving papers to a family to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the CHA’s jurisdiction.
The CHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., domestic violence, sexual violence, witness protection programs) or to address an emergency situation over which a family has no control.

In addition, the CHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. Moving Process

Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the PHA’s jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

Approval

CHA Policy

Upon receipt of a family’s notification that it wishes to move, the CHA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. A family that is in the process of an eviction action by the owner for violation of their lease is not eligible for a voucher to move to a new unit. A family that has been issued an Intent to Terminate Notice is also not eligible for a move. The CHA will notify the family in writing of its determination.

The CHA may deny a family permission to make an elective move if the family’s next regularly scheduled reexamination is within 120 days. The family may be required to complete the reexamination process before the move is approved.

Re-examination of Family Income and Composition

CHA Policy

For families approved to move to a new unit within the CHA’s jurisdiction, the CHA will not perform a new annual reexamination.

For families moving into or families approved to move out of the CHA’s jurisdiction under portability, the CHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

CHA Policy

For families approved to move to a new unit within the CHA’s jurisdiction, the CHA will issue a new voucher within 10 calendar days of the CHA’s written approval to move. A briefing is required for these families. The CHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the CHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the CHA’s jurisdiction under portability, the CHA will follow the policies set forth in Part II of this chapter.
Prior to granting approval to move to a new unit, whether within or outside of the CHA’s jurisdiction, the CHA will conduct a criminal background check for each family member age 18 and older.

**Housing Assistance Payments**

[24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

**CHA Policy**

CHA will not make any housing assistance payment to the owner for any month after the month the family moves out except in the case of families that were public housing relocatees. If the family was a public housing relocatee that moved out of the unit without providing the owner proper notice as specified in the lease, the CHA will make a housing assistance payment to the owner for the month after the month that the family moved out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

**Part II: Portability**

**10-II.A. Overview**

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA**. The second is called the **receiving PHA**.

The receiving PHA has the option of administering the family’s voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family’s housing assistance payments and the fees for administering the family’s voucher. Under the second option, the receiving PHA pays for the family’s assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.
**10-II.B. Initial PHA Role**

**Allowable Moves under Portability**

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA’s jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

**Applicant Families**

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA’s jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

**CHA Policy**

In determining whether or not to deny an applicant family permission to move under portability because the CHA lacks sufficient funding or has grounds for denying assistance to the family, the CHA will follow the policies established in section 10-I.B of this chapter.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

**CHA Policy**

If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in the CHA’s jurisdiction at the time the family’s application for assistance was submitted, the family will be allowed to move to an area outside the CHA’s jurisdiction under portability providing that the receiving PHA agrees to accept the family [24 CFR 982.353(c)(3)].

**Participant Families**

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

**CHA Policy**

The CHA will determine whether a participant family may move out of the CHA’s jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The CHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.
Determining Income Eligibility

**Applicant Families**

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the initial PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

**Participant Families**

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

**Re-examination of Family Income and Composition**

No new reexamination of family income and composition is required for an applicant family.

**CHA Policy**

For a participant family moving out of its jurisdiction under portability, the CHA generally will conduct a reexamination of family income and composition only if the family's regular reexamination must be completed before 30 days following the initial billing deadline specified on form HUD-52665, Family Portability Information.

The CHA will make any exceptions to this policy, documented in writing, necessary to remain in compliance with HUD regulations.

Prior to granting approval to a participant family to move out of its jurisdiction under portability, the CHA will conduct a criminal background check for each family member age 18 and older.

**Briefing**

The regulations and policies on briefings set forth in Chapter 5 of this plan require the initial PHA to provide information on portability to all applicant families that qualify to lease a unit outside the initial PHA’s jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

**CHA Policy**

A formal briefing will be required for a participant family wishing to move outside the CHA’s jurisdiction under portability. The CHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). The CHA will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. The CHA will advise the family that they will be under the receiving PHA’s policies and procedures, including subsidy standards and voucher extension policies.
Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

CHA Policy

For families approved to move under portability, the CHA will issue a new voucher to the family upon the CHA’s written approval to move.

The initial term of the voucher will be 90 days.

Voucher Extensions and Expiration

CHA Policy

The CHA will approve no extensions to a voucher issued to an applicant or participant family porting out of the CHA’s jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the CHA’s jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA’s jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the CHA’s voucher program, a family that moves to another PHA’s jurisdiction under portability must be under HAP contract in the receiving PHA’s jurisdiction within 60 days following the expiration date of the CHA’s voucher term (including any extensions). (See below under “Initial Billing Deadline” for one exception to this policy.)

Initial Contact with the Receiving PHA

After approving a family’s request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family’s behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

CHA Policy

Because the portability process is time-sensitive, the CHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. The CHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, and e-mail and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The CHA will pass this information along to the family. The CHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.
Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family’s voucher [Notice PIH 2004-12]
- A copy of the family’s most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

CHA Policy

In addition to these documents, the CHA will provide the following information, if available, to the receiving PHA:

- Social security numbers (SSNs)
- Documentation of SSNs for all household members, with the exception of those listed by HUD as exempt from this requirement
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program

The CHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2004-12]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA’s failure to comply with the deadline.

CHA Policy

If the CHA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the receiving PHA reports that the family is not yet under HAP contract, the CHA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The CHA will send the receiving PHA a written confirmation of its decision by mail.

The CHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.
Monthly Billing Payments
[24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving PHA is administering the family’s voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the seventh calendar day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The initial PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

CHA Policy

The CHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the CHA that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family’s regular reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Subsequent Family Moves

Within the Receiving PHA’s Jurisdiction

[24 CFR 314(e)(1), Notice PIH 2005-1]

The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

CHA Policy

If the CHA determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-I.B), it will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the CHA’s jurisdiction.

The CHA will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities and families eligible under VAWA.
**Outside the Receiving PHA’s Jurisdiction**

[Notice PIH 2004-12]

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA’s jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA’s jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

**Denial or Termination of Assistance**

[24 CFR 982.355(c)(9)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

**10-II.C. Receiving PHA Role**

If a family has a right to lease a unit in the receiving PHA’s jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA’s procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA’s waiting list is not used [24 CFR 982.355(10)]. However, the family’s unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family’s housing assistance payment is determined in the same manner as for other families in the receiving PHA’s voucher program [24 CFR 982.355(e)(2)].

**Initial Contact with Family**

When a family moves into the receiving PHA’s jurisdiction under portability, the family is responsible for promptly contacting the receiving PHA and complying with the receiving PHA’s procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the receiving PHA initially bills the initial PHA for the family’s assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under “Absorbing a Portable Family” for more on this topic.)

**CHA Policy**

Within ten (10) calendar days after a portable family requests assistance, the CHA will notify the initial PHA whether it intends to bill the initial PHA on behalf of the portable family or absorb the family into its own program.
If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under “Denial or Termination of Assistance.”)

**Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family’s search [Notice PIH 2004-12].

**CHA Policy**

The CHA will require the family to attend a briefing. The CHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the CHA’s payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. The CHA will accept reasonable accommodation requests with regards to the mandatory briefing with families.

**Income Eligibility and Reexamination**

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the initial PHA’s voucher program [24 CFR 982.355(c)(1)].

**CHA Policy**

The CHA will rely upon the income information provided by the initial PHA and will not conduct a new reexamination of income and composition for incoming portable families. Post lease up, families may request an interim to be conducted if there has been a change in family composition or income.

For any family moving into its jurisdiction under portability, the CHA will conduct a criminal background check for each family member age 18 and older. The CHA will not conduct a criminal background check of an applicant family moving into the jurisdiction unless the jurisdiction from which the family is porting did not conduct a criminal background screening or the criminal background screening is over 120 days old. The criminal background screening will be conducted in accordance with the applicant screening procedures for CHA.

**Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA’s voucher [24 CFR 982.355(c)(6)].
Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family’s paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA’s procedures [Notice PIH 2004-12].

CHA Policy

When a family ports into its jurisdiction, the CHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family’s paperwork from the initial PHA is incomplete, the family’s voucher from the initial PHA has expired or will expire before 60 calendar days, or the family does not comply with the CHA’s procedures.

Voucher Term

The term of the receiving PHA’s voucher may not expire before the term of the initial PHA’s voucher [24 CFR 982.355(c)(6)].

CHA Policy

The CHA’s voucher will expire on the same date as the initial PHA’s voucher.

Voucher Extensions

[24 CFR 982.355(c)(6), Notice 2004-12]

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA’s voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

CHA Policy

The CHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the CHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The CHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2) and families eligible under VAWA.

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA’s voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under “Administering a Portable Family’s Voucher.”).
If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA’s jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA’s voucher is only valid for the family’s search in the receiving PHA’s jurisdiction. [Notice PIH 2004-12]

**Administering a Portable Family’s Voucher**

*Initial Billing Deadline*

If a portable family’s search for a unit is successful and the receiving PHA intends to administer the family’s voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 calendar days following the date the receiving PHA executes a HAP contract on behalf of the family and (b) in time that the notice will be received no later than 60 days following the expiration date of the family’s voucher issued by the initial PHA [Notice PIH 2004-12]. A copy of the family’s form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

**CHA Policy**

The CHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 10 calendar days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH 2004-12].

*Ongoing Notification Responsibilities*

[Notice PIH 2004-12, HUD-52665]

**Annual Reexamination**

The receiving PHA must send the initial PHA a copy of a portable family’s updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

**CHA Policy**

The CHA will send a copy of the updated HUD-50058 by regular mail at the same time the CHA and owner are notified of the biennial reexamination results.

**Change in Billing Amount.** The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
Termination of the HAP contract
Payment of a damage/vacancy loss claim for the family
Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than ten (10) calendar days following the effective date of the change in the billing amount.

Late Payments [Notice PIH 2004-12]

If the initial PHA fails to make a monthly payment for a portable family by the seventh calendar day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2004-12]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD’s discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2004-12.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the receiving PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 calendar days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12].
CHA Policy

If the CHA elects to deny or terminate assistance for a portable family, the CHA will notify the initial PHA within ten (10) calendar days after the informal review or hearing if the denial or termination is upheld. The CHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The CHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the receiving PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the receiving PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over leasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2004-12]

CHA Policy

If the CHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the CHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the CHA decides to absorb a family after that, it will provide the initial PHA with 30 calendar days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA’s voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.
Chapter 11—Re-examinations

Introduction

PHAs are required to reexamine each family’s income and composition at least annually, and to adjust the family’s level of assistance accordingly. However, the CHA is a Moving to Work PHA and, under its agreement with HUD, is authorized to conduct reexaminations on a biennial basis for families and on a triennial basis for the elderly and disabled households. Interim reexaminations are also needed in certain situations. This chapter discusses both regular (biennial and triennial) and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Regular reexaminations. This part discusses the process for conducting regular reexaminations on a biennial and triennial schedule.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between regular reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of regular and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

Part I: Regular Re-examinations

[24 CFR 982.516]

11-I.A. Overview

The CHA must conduct a reexamination of family income and composition on a biennial schedule for families and on a triennial schedule for elderly and disabled households. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family’s income and rent must be recalculated. This part discusses the schedule for regular reexaminations, the information to be collected and verified, and regular reexamination effective dates.
11-I.B. Scheduling Regular Re-examinations

CHA Policy

The CHA will ensure that the regular reexamination for each family is completed within a 24-month period.

The CHA will begin the regular reexamination process 90-120 days in advance of its scheduled effective date. Generally, the CHA will schedule regular reexamination effective dates to coincide with the family’s anniversary date.

Anniversary date is defined as 24 months for families from the effective date of the family's last regular reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

In the case of families, the year of the regular reexamination is based on the year the family was first admitted to the HCV program using the effective date of the first HAP contract signed on behalf of the family. Families that were admitted in an even numbered year will have their regular reexaminations conducted in even years (every two years) and families that were admitted in odd numbered years in odd years (every two years).

In the case of families participating in the Family Self Sufficiency (FSS) program or the homeownership option of the HCV program, the CHA will conduct the regular reexamination every year.

The CHA also may schedule a regular reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Regular Re-examination Process

The PHA is required to obtain the information needed to conduct regular reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete form HUD-92006 at this time [Notice PIH 2009-36].

CHA Policy

Families are required to participate in activities necessary to complete a regular reexamination.

To complete the regular reexamination, the family may be required to attend an in-person interview. If required to attend, all adult members of the household must be present. If participation in an in-person interview poses a hardship because of a family member’s disability, the family should contact the CHA to request a reasonable accommodation (see Chapter 2).

The CHA will determine that a family is eligible for continued assistance based on information that the CHA received within the 120 day period prior to effective date of the reexamination.

Notification of regular reexamination requirements will be sent by first-class mail and will contain the date, time, and location of any scheduled interview. In addition, it will inform the family of the information and documentation that must be provided.
If the family is unable to attend a scheduled interview, the family should contact the CHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the CHA may send a second notification with a new interview appointment time and advise the family if it misses the second appointment, the CHA will issue a notice of termination to the family.

If a family fails to attend two scheduled interviews without the CHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family’s address of record, and to any alternate address provided in the family’s file.

An advocate, interpreter, or other assistant may assist the family in the interview process.

11-I.C. Conducting Regular Re-examinations
As part of the regular reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

CHA Policy

Families will be asked to provide all required information (as described in the reexamination notice) within a required time frame. The required information will include a CHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, the Authorization For Release of Information Addendum, a family consent form allowing the CHA to access information about secondary and post secondary schools about program participants and members of the family, form HUD-92006, Supplement to Application for Federally Assisted Housing, as well as supporting documentation related to the family's income, expenses, and family composition.

The CHA will perform criminal background checks for every household member (18 years and older) including Live-in-Aides. The CHA will also obtain police reports on household members, 17 years and older, who have been reported to the CHA as participants who have engaged in any criminal activity within the last five (5) years.

If the family attended an interview, any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

When correcting an error, as a result of quality control activity, the CHA will not obtain EIV information for a PHA’s initiated interim re-examination.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:
11-I.D. Determining Ongoing Eligibility of Certain Students

[24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student’s eligibility must be reexamined along with the income eligibility of the student’s parents on an annual basis. In these cases, both the student and the student’s parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with PHA policy, the income of the student’s parents will not be considered in determining the student’s ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

CHA Policy

During the regular reexamination process, the CHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student’s individual income as well as the income of the student’s parents. If the student has been determined “independent” from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents’ income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the CHA will send the student a notice to terminate and the student’s assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the CHA will process a reexamination in accordance with the policies in this chapter.
11-I.E. Effective Dates

The PHA must establish policies concerning the effective date of changes that result from a regular reexamination [24 CFR 982.516].

**CHA Policy**

In general, an *increase* in the family share of the rent that results from a regular reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 calendar days in advance.

If less than 30 calendar days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30 calendar day notice period.

If a family moves to a new unit within 90-120 calendar days of the regular reexamination, the change will take effect on the effective date of the new lease and HAP contract, and no 30 calendar day notice is required.

If the CHA chooses to schedule a regular reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the CHA, but will always allow for the 30 calendar day notice period.

If the family causes a delay in processing the regular reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the regular reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from a regular reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the CHA chooses to schedule a regular reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be the first day of the newly rescheduled annual reexamination month.

If the family causes a delay in processing the regular or rescheduled reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the CHA by the date specified, and this delay prevents the CHA from completing the reexamination as scheduled.
Part II: Interim Re-examinations
[24 CFR 982.516]

11-II.A. Overview
Family circumstances may change throughout the period between regular reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family’s income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family’s request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA-initiated and family-initiated interim reexaminations.

11-II.B. Changes in Family and Household Composition
The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

**CHA Policy**

The CHA will conduct interim reexaminations to account for any approved additions or removals in household composition that occur between regular reexaminations.

**New Family Members Not Requiring Approval**
The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

**CHA Policy**

The family is required to promptly notify the CHA of the addition of a family member as a result of birth, adoption, or court-awarded custody.

The family must request authorization from the owner to add a family member as a result of birth, adoption or court-awarded custody of a child. In addition, CHA may require the family to provide proof of the owner’s authorization at the family’s next regular reexamination.
New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

CHA Policy

The family must request and obtain CHA approval before adding any member to the household.

Families must obtain the owner’s approval to add a new family or household member. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days, or 90 cumulative days, within a twelve month period, and therefore no longer qualifies as a “guest.” In addition, CHA may require the family to provide proof of the owner’s authorization at the family’s next regular reexamination.

The CHA will not approve the addition of a new family or household member unless the individual meets the CHA’s eligibility criteria (see Chapter 3).

Departure of a Family or Household Member

Families must promptly notify the PHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

CHA Policy

If a household member ceases to reside in the unit, the family must inform the CHA within 30 days of the move. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the CHA at the next regular reexamination.

11-II.C. Changes Affecting Income or Expenses

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.
PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

**CHA Policy**

If the family has reported zero income, before any income exclusions, the CHA will check EIV data every six months and, if appropriate, conduct an interim reexamination.

Families with zero income, before any income exclusions must report all changes in annual income within 30 calendar days of the change. CHA reserves the right to not process an interim re-certification.

CHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination to investigate a tenant fraud complaint or to address a multiple subsidy report.

Family-Initiated Interim Reexaminations

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

**Required Reporting**

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

**CHA Policy**

Families with zero income, before any income exclusions for the household, are required to report all increases in income, including new employment, within 30 calendar days of the date the change takes effect. CHA will process an interim reexamination based on the income reported for these zero income families.

Families with income are not required to report increases in income in between regular re-examinations. However, if a family reports an income increase, CHA may, and at its sole discretion, conduct an interim re-examination based on the increased income.

**Optional Reporting**

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family’s share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.
CHA Policy

Families may report decreases in income or increases in expenses at any time. The CHA will conduct an interim reexamination if appropriate.

11-II.D. Processing the Interim Re-examination

Method of Reporting

CHA Policy

The family may notify the CHA of changes in writing.

The family normally will not be required to attend an interview for an interim reexamination. However, if the CHA determines that an interview is warranted, the family may be required to attend. Reasonable accommodation may be provided to a family who requests it.

Based on the type of change reported, the CHA will determine the documentation the family will be required to submit. The family must submit any required information or documents to the CHA. The CHA will accept required documentation by mail, by fax, or in person.

Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

CHA Policy

If the family share of the rent is to increase:

The increase generally will be effective on the first of the month following 30 calendar days’ notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to decrease:

The decrease will be effective on the first day of the month following the month in which all required documentation was received. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.
Part III: Recalculating Family Share and Subsidy Amount

11-III.A. Overview
After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a regular reexamination.

11-III.B. Changes in Payment Standards and Utility Allowances
In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA’s calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards
[24 CFR 982.505]
The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family’s situation changes, new payment standards are applied at the following times:

- If the PHA’s payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has increased, the increased payment standard will be applied at the first regular reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has decreased, the decreased payment standard will be applied at the second regular reexamination following the effective date of the decrease in the payment standard.

- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards
[24 CFR 982.505(c)(4)]
If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA’s subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family’s first regular reexamination following the change in family unit size.
Utility Allowances
[24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family’s utility arrangement with the owner, or in the PHA’s utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

**CHA Policy**
Revised utility allowances will be applied to a family's rent and subsidy calculations at the first regular or interim reexamination after the allowance is adopted.

11-III.C. Notification of New Family Share and HAP Amount
The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA’s determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

**CHA Policy**
The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

11-III.D. Discrepancies
During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.
Chapter 12—Termination of Assistance and Tenancy

HUD regulations specify the reasons for which PHA can terminate a family’s assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family’s assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the PHA based on the family’s behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA must use when deciding what action to take, and the steps the PHA must take when terminating a family’s assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner’s right to terminate an assisted tenancy.

Part I: Grounds for Termination of Assistance

12-I.A. Overview

HUD requires the PHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the PHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the PHA.

12-I.B. Family No Longer Requires Assistance

[24 CFR 982.455]

As a family’s income increases, the amount of the PHA subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

CHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the CHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. Family Chooses to Terminate Assistance

The family may request that the PHA terminate the family's assistance at any time.

CHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family’s assistance, the CHA will follow the notice requirements in Section 12-II.F.
12-I.D. Mandatory Termination of Assistance

HUD requires the PHA to terminate assistance in the following circumstances.

Eviction


The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incident or incidents of actual or threatened domestic violence, sexual violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

CHA Policy

A family will be considered evicted if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary. If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the CHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, the CHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent

[24 CFR 982.552(b)(3)]

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship

[24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family’s assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.
Failure to Disclose and Verify Social Security Numbers
[24 CFR 5.218(c), Notice PIH 2010-3]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family’s failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family’s control, the PHA may defer the family’s termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

CHA Policy

The CHA will defer the family’s termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant’s control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production
[24 CFR 982.553(b)(1)(ii)]

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Failure of Students to Meet Ongoing Eligibility Requirements
[24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, and is not residing with his/her parents in an HCV assisted household, the PHA must terminate the student’s assistance if, at the time of reexamination, either the student’s income or the income of the student’s parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.
12-I.E. Mandatory Policies and Other Authorized Terminations

Mandatory Policies
[24 CFR 982.553(b) and 982.551(l)]

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any household member has ever been convicted of drug related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any household member has violated the family’s obligation not to engage in any drug-related criminal activity.
- Any household member has violated the family’s obligation not to engage in violent criminal activity.

CHA Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five (5) years, the family will be terminated:

**Drug-related criminal activity**, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

**Violent criminal activity**, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Paroled or released from a facility for violent criminal activity.

Illegal possession and use of a firearm or aggravated assault weapon in violation of federal, state or local criminal or civil laws.

Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the CHA (including a CHA employee or a CHA contractor, subcontractor, or agent).

*Immediate vicinity* means within a one mile radius of the premises.

Evidence of such criminal activity includes, but is not limited to:

- Any conviction for drug-related or violent criminal activity within the past five (5) years.
- Any arrests for drug-related or violent criminal activity within the past five (5) years.
• Any record of eviction from public or privately-owned housing as a result of criminal activity within the past five (5) years.

• A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity. A pattern of illegal use of drugs or violent criminal activity, whether established by one or more arrests or one or more convictions of the same or similar criminal activity will be given more weight than a single arrest for such activity.

• A record that an applicant or household member has been paroled or released from a facility for violence to persons or property within the past five (5) years.

The CHA may terminate a family’s assistance if any household member, including members who are 17 years of age, are currently engaged or have been engaged within the past five (5) years in any illegal use of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Use of Illegal Drugs and Alcohol Abuse
CHA Policy

The CHA will terminate a family’s assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The CHA will terminate assistance if any household member’s abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in is defined as any use of illegal drugs during the previous six months.

The CHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or evictions of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the CHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the CHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity
[24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) or any other illegal drug.

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.
CHA Policy

The CHA will terminate a family’s assistance if any household member has violated the family’s obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The CHA will terminate a family’s assistance for illegal possession or use of a firearm or an aggravated assault weapon in violation of federal, state, or local criminal or civil laws by any household member or their guests while on the property or within the immediate vicinity.

The CHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, any eye witnesses accounts, any agent and/or employee of the CHA’s investigation indicating current drug-related or violent criminal activity, regardless of whether the family member has been arrested or convicted, and any eviction or notice to evict based on drug-related or violent criminal activity, including illegal possession or use of a firearm or an aggravated assault weapon in violation of federal, state or local criminal or civil laws.

In making its decision to terminate assistance, the CHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the CHA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance
[24 CFR 982.552(c), Pub.L. 109-162]

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents or actual threatened domestic violence, sexual violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

CHA Policy

The CHA will not terminate a family’s assistance because of the family’s failure to meet its obligations under the Family Self-Sufficiency program.

The CHA will terminate a family’s assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related CHA policies.

The family does not provide complete or accurate information that the CHA or HUD determines is necessary in the administration of the program.

Any household member has been convicted of child molestation and/or arson.

Any household member is subject to the State of Illinois 10 Year Sex Offender Statute and/or any other state registration requirement where the family member is known to have resided.

Any PHA has previously terminated assistance for any family member under any federal assisted housing program within the last 10 years. This policy excludes voluntary terminations.
Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any PHA in connection with the HCV, Moderate Rehabilitation or public housing programs.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the CHA.

A family member has engaged in or threatened violent or abusive behavior toward CHA personnel (including a CHA employee or a CHA contractor, subcontractor or agent).

Abusive or violent behavior towards CHA personnel or agents and contractors includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

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

In making its decision to terminate assistance, the CHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D and Section 12-II.E. Upon consideration of such alternatives and factors, the CHA may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit
[24 CFR 982.312]

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

CHA Policy

If the family is absent from the unit for more than 90 consecutive calendar days, the family’s assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

Insufficient Funding
[24 CFR 982.454]

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.
CHA Policy

The CHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the CHA determines there is a shortage of funding, prior to terminating any HAP contracts, the CHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the CHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the CHA will inform the local HUD field office. The CHA will terminate the minimum number needed in order to reduce HAP costs to a level within the CHA’s annual budget authority.

If the CHA must terminate HAP contracts due to insufficient funding, the CHA will make public its plan for terminating assistance.

Part II: Approach to Termination of Assistance

12-II.A. Overview

The PHA is required by regulation to terminate a family’s assistance if certain program rules are violated. For other types of offenses, the regulations give the PHA the discretion to either terminate the family’s assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. Method of Termination

[24 CFR 982.552(a)(3)]

The way in which the PHA terminates assistance depends upon individual circumstances. HUD permits the PHA to terminate assistance by:

Terminating housing assistance payments under a current HAP contract,
Refusing to approve a request for tenancy or to enter into a new HAP contract, or
Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. Alternatives to Termination of Assistance

Change in Household Composition
As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].
Repayment of Family Debts

**CHA Policy**

If a family owes amounts to the CHA, as a condition of continued assistance, the CHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 calendar days of receiving notice from the CHA of the amount owed. See Chapter 16 for policies on repayment agreements.

**12-II.D. Criteria for Deciding to Terminate Assistance**

**Evidence**

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

**CHA Policy**

The CHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Consideration of Circumstances**

[24 CFR 982.552(c)(2)(i)]

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family’s assistance should be terminated.

**CHA Policy**

If any household member is or was responsible for an offense, the CHA will issue a notice of termination to the family.

The CHA will consider one or more of the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, sexual violence, dating violence, or stalking.
- In the case of victims of domestic violence, dating violence, or stalking, whether the family failed to meet family obligations due to domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, the family’s recent history and the likelihood of favorable conduct in the future.
In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The CHA will require the participant to submit evidence of the household member’s current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

**Reasonable Accommodation**

[24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA’s decision to terminate the family’s assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

**CHA Policy**

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance and/or requests a reasonable accommodation, the CHA will determine whether the behavior is related to the disability. If so, upon the family’s request, the CHA will determine whether alternative measures are appropriate as a reasonable accommodation. The CHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

**12-II.E. Terminating the Assistance of Domestic Violence, Dating Violence or Stalking Victims and Perpetrators**


The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that “criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s family is the victim or threatened victim of that domestic violence, dating violence, or stalking.”

VAWA also gives the PHA the authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.”

VAWA does not limit the authority of the PHA to terminate the assistance of any participant if the PHA “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.”
VAWA also does not limit the authority of the PHA to maintain the right and authority to terminate the assistance of any participant or member of the participant’s household, including a victim of domestic violence, dating violence, or stalking for any violations not premised on the act or acts of domestic violence, dating violence, or stalking in question. The PHA must not subject an individual who is or has been a victim of domestic violence, sexual violence, dating violence, or stalking to a more demanding standard than other residents in determining whether to terminate assistance.

**CHA Policy**

In determining whether a participant who is a victim of domestic violence, sexual violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the CHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, sexual violence, dating violence, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

**Victim Documentation**

**CHA Policy**

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant’s control and a participant or immediate family member of the participant’s family claims that she or he is the victim of such actions and that the actions are related to domestic violence, sexual violence, dating violence, or stalking, the CHA will request in writing that the participant submit documentation affirming that claim. The CHA request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the CHA will accept either of the following forms of documentation:

- A police or court record documenting the actual or threatened abuse
- Documentation signed by a person who has assisted the victim in addressing domestic violence, sexual violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The CHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.
The individual claiming domestic violence, sexual violence victim status must submit the requested documentation within 14 calendar days after receipt of the CHA’s written request or must request an extension within that 14-calendar day period. The CHA may, at its discretion, extend the deadline for 10 calendar days.

If the individual provides the requested documentation within 14 calendar days, or any CHA-approved extension, the CHA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 calendar days, or any CHA-approved extension, the CHA will proceed with termination of the family’s assistance in accordance with applicable law, program regulations, and the policies in this plan.

**Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the PHA the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others…without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.” This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271]. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs].

**CHA Policy**

The CHA will terminate assistance to a family member if the CHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, the CHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the CHA by the victim in accordance with this section. The CHA will also consider the factors in section 12-II.D. Upon such consideration, the CHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the CHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.
PHA Confidentiality Requirements
All information provided to the PHA regarding domestic violence, sexual violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. The PHA will maintain confidentiality of information received and shared, and keep all information provided confidential in a secure file. If necessary, the PHA will not enter information into any shared data base nor provided such information to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

CHA Policy
If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the CHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

12-II.F. Termination Notice
[HCV GB, p. 15-7]
If a family’s assistance is to be terminated, whether voluntarily or involuntarily, the PHA must give the family and the owner written notice that specifies:

The reasons for which assistance has been terminated
The effective date of the termination
The family’s right to an informal hearing as described in Chapter 16
If a criminal record is the basis of the termination, a copy of the record will be provided to the family. A copy of the criminal record also must be provided to the subject of the record at the listed address of the subject [24 CFR 982.553(d)].

CHA Policy
When termination is initiated by the CHA, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the CHA, 30 calendar days notice will not be given. In these cases, the notice to terminate will be sent at the time the CHA learns the family has vacated the unit.

When a family requests to withdraw from the program they must do so in writing to the CHA (see section 12-I.C.). The CHA will then send a confirmation notice to the family and the owner indicating that the family voluntarily relinquished its HCV assistance within 10 calendar days of the family’s request.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]
The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member’s citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.
The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

**CHA Policy**
The CHA will send a notice to terminate to the family and the owner at least 30 calendar days prior to the effective date of the termination.

12-II.G. How Termination of Assistance Affects the HAP Contract And Lease
When the family’s assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

Part III: Termination of Tenancy by The Owner

12-III.A. Overview
Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. Grounds for Owner Termination of Tenancy

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

**Serious or Repeated Lease Violations**
The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to an incident or incidents of actual or threatened domestic violence, sexual violence, dating violence, or stalking against that participant. This includes failure to pay rent or other amounts due under the lease. However, the PHA’s failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

**Violation of Federal, State, or Local Law**
The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

**Criminal Activity or Alcohol Abuse**
The owner may terminate tenancy during the term of the lease if any covered person, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):
Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);

Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

Any violent criminal activity on or near the premises; or

Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

**Evidence of Criminal Activity**

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, sexual violence, dating violence, or stalking and the tenant or an immediate member of the tenant’s family is the victim or threatened victim of the domestic violence, sexual violence, dating violence, or stalking. (See Section 12-II.E.).

**Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.
12-III.C. Eviction
[24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

CHA Policy

If the eviction action is finalized in court, the owner must provide the CHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 10 calendar days following the court-ordered eviction.

12-III.D. Deciding Whether to Terminate Tenancy
[24 CFR 982.310(h), Pub.L. 109-162]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include but are not limited to:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner’s failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.
In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA). (See Section 12-II.E.).

Owners are also bound by the terms of the State of Illinois Safe Homes Act (765 ILCS 750/).

12-III.E. Effect of Tenancy Termination on the Family’s Assistance

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

Exhibit 12-1: Statement of Family Obligations

Family Obligations

When the family's unit is approved and the Housing Assistance Payments contract is executed, the family must follow the rules listed below in order to continue participating in the Chicago Housing Authority's Housing Choice Voucher Program. Families that do not abide by these obligations will be terminated from the program.

A. The Family (Including Each Family Member) Must:
   1. Supply any information that the CHA or HUD determines to be necessary including evidence of citizenship or eligible immigration status, and information for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
   2. Disclose and verify social security numbers.
   3. Sign and submit consent forms for obtaining information as required by the CHA.
   4. Attend informational briefings including but not limited to those scheduled to discuss violations of family obligations and allegations of criminal activity in the family's unit, building or neighborhood.
   5. Supply any information requested by the CHA to verify that the family is living in the unit or information related to family absence from the unit.
   6. Promptly notify the CHA in writing when the family is away from the unit for more than 30 days.
   7. Notify the CHA and the owner in writing at least 30 days before moving out of the unit or terminating the lease.
   8. Use the assisted unit solely for residence by the family that is listed on the HAP Contract and Lease. The unit must be the family's only residence.
9. Promptly notify the CHA in writing of the birth, adoption, or court-awarded custody of a child.

10. Request the CHA and the owner’s written approval to add any other family member as an occupant of the unit.

11. Request and obtain the CHA approval before adding a live-in aide to the household.

12. Promptly notify the CHA in writing if any family member no longer lives in the unit.

13. Pay utility bills and provide and maintain any stove, microwave, and/or refrigerator that the owner is not required to provide under the lease.

14. Allow the CHA to inspect the unit at reasonable times and after reasonable notice.

15. Give the CHA a copy of any owner eviction notice.

B. Any information the family supplies must be true and complete.

C. The Family (Including Each Family Member) Must Not:

15. Own or have any interest in the unit (other than in a cooperative, or the CHA Homeownership Program, Choose to Own).

16. Receive housing choice voucher program housing assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the CHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

17. Receive housing choice voucher program housing assistance while receiving another housing subsidy, for the same unit or a different unit under any other Federal, State or local housing assistance program.

18. Sublease or let the unit or assign the lease or transfer the unit.

19. Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises.

20. Commit any serious or repeated violation of the lease.

21. Engage in or allow guests to engage in any behavior that disturbs the peaceful and quiet enjoyment by others of the premises and the neighborhood.

22. Threaten or engage in or allow guests to threaten or engage in abusive or violent behavior toward CHA personnel or its representatives.

23. Commit fraud, bribery or any other corrupt or criminal act in connection with the program.

24. Engage in or allow guests to 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.
25. Possess or use Illegal possession and use of a firearm or aggravated assault weapon in violation of federal, state or local criminal or civil laws;

26. Engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.

27. Be a registered sex offender in any state or territory of the United States.

28. Be convicted of a drug related crime for the manufacture or production of methamphetamine on the premises of federally assisted housing.

CHA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

CHA Policy

The CHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner’s notice to evict.

CHA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the CHA at the same time the owner is notified.

CHA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

CHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the CHA at the start of the extended absence.
Chapter 13—Owners

Introduction

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.
Part I: Owners in the HCV Program

13-I.A. Owner Recruitment and Retention
[HCV GB, pp. 2-4 to 2-6]

Recruitment
The PHA is responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the PHA’s jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA’s jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, the PHA must identify and recruit new owners to participate in the program.

CHA Policy
The CHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The CHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include but are not limited to:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Holding owner recruitment/information meetings at least once a year
- Participating in community based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Mandatory Briefing Prior for New Owners/property managers
CHA Policy
Effective March 2010, the CHA requires all new and returning owners/property managers to participate in an owner/property manager briefing session prior to executing the HAP contract.
Retention
In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

CHA Policy

All CHA activities that may affect an owner’s ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The CHA will provide owners with a handbook that explains the program, including relevant HUD and the CHA policies and procedures, in easy-to-understand language.

The CHA will give special attention to helping new owners succeed through activities such as:

- Conducting owner orientation and training programs.
- Coordinating inspection and leasing activities between the CHA, the owner, and the family.
- Explaining the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including answers to frequently asked questions.
- Providing a web based owner property listing service.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. Basic HCV Program Requirements
HUD requires the PHA to aid families in their housing search by providing the family with a list of owners/property managers or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

CHA Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the CHA. The CHA will maintain a listing of such owners on its web site and provide this listing to the HCV family as part of the informational briefing packet.
When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing to lease to the family, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. The owner must also submit a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

The PHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, the PHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.
The PHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

13-I.C. Owner Responsibilities

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner’s obligations under the Housing Assistance Payments (HAP) contract and the lease
- Complying with the PHA’s policies in accordance with the Administrative Plan
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting from the family any security deposit, the tenant’s contribution to rent (that part of rent to owner not covered by the housing assistance payment from the PHA), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the family under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.
- Comply with the Illinois Safe Homes Act (765 ILCS 750et seq.)

CHA Policy

In order to participate in the HCV program, owners must be willing to receive HAP via direct deposit. In addition, owners must notify the CHA of any changes to their bank accounts. If owners fail to notify the CHA, they will be subject to fees and/or penalties for non-compliance.
13-I.D. Owner Qualifications

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

CHA Policy

Upon receiving an RTA, the CHA will screen new owners or current owners (if not screened within the last 90 days) in the areas of property taxes, criminal activity, foreclosure, credit checks or other areas as determined necessary by the CHA. Credit checks will be limited to no more than once every twelve (12) months.

Owners must be willing to receive HAP via direct deposit. In addition, owners must notify the CHA of any changes to their bank accounts. If owners fail to notify the CHA, they will be subject to fees and/or penalties for non-compliance.

Owners Barred from Participation
[24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed by HUD that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives
[24 CFR 982.306(d), HCV GB p. 11-2]

The PHA must not approve an RTA if the owner is the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest
[24 CFR 982.161; HCV GB p. 8-19]

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States
HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state’s attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

**CHA Policy**

In considering whether to request a conflict of interest waiver from HUD, the CHA will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

**Owner Actions That May Result in Disapproval of a Tenancy Request**

[24 CFR 982.306(c)]

HUD regulations permit the PHA, at the PHA’s discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner’s properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].
CHA Policy

The CHA will use enhanced screening criteria such as a credit and criminal background check for new owners and property managers to determine approval of RTA. In order to obtain access to records, the CHA will require owners and property managers to submit a signed consent form along with the RTA.

The CHA will refuse to approve a request for tenancy if the CHA becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity, any violent criminal activity, illegal possession and/or use of a firearm or aggravated assault in the last (3) three years.
- The owner has an arson, sex offender or child molestation conviction
- The owner has engaged in violent behavior toward CHA's personnel (including a CHA employee, CHA contractor, subcontractor, or agent).
- 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 property-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees and/or agents or contractors of the CHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is engaged in drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.
- The owner has an outstanding debt to the CHA and/or another PHA
- A foreclosure has been filed on the property.

If the CHA refuses to approve the RTA, owners may request a review of the decision. To request an informal review, owners will follow applicant procedures as outlined in Chapter 16 Section III.B.
Legal Ownership of Unit
The following represents the PHA’s policy on legal ownership of a dwelling unit to be assisted under the HCV program.

CHA Policy

The CHA requires acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year) for the execution of a HAP Contract or to process a change in ownership.

13-I.E. Non-Discrimination
[HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

Part II. HAP Contracts

13-II.A. Overview
The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner’s responsibilities under the program, as well as the PHA’s obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program. See chapter 15 for a discussion of any special housing types included in the PHA’s HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.
13-II.B. HAP Contract Contents

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641. The HAP contract contains three parts:

Part A of the contract includes basic contract information about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of the PHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, the PHA has the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. The PHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, the PHA has the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

**CHA Policy**

The CHA shall deem the housing assistance payment received by the owner when the direct deposit transaction is made by the CHA.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner’s Breach of HAP Contract
- PHA and HUD Access to Premises and Owner’s Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation
Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP Contract Payments

General
During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family’s lease. The total of the rent paid by the tenant, plus the PHA HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family’s share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

CHA Policy

The CHA will make HAP payments to owners by electronic transfer (direct deposit) to the owner’s bank account.
**Owner Certification of Compliance**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner remains the owner for the premises leased, is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner’s knowledge, the family resides in the unit as the family’s only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

**Late HAP Payments**

[24 CFR 982.451(a)(5)]

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner’s normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family’s share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA’s control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

**Termination of HAP Payments**

[24 CFR 982.311(b)]

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner is in compliance with the HAP contract and has initiated eviction proceedings against the family, and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.
CHA Policy

The owner must inform the CHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the CHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the CHA with a copy of such judgment or determination.

Once the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the CHA will terminate the HAP contract, initiate termination proceedings (if not already started) and provide proper notice of termination.

13-II.D. Breach of HAP Contract

[24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.
**CHA Policy**

Before the CHA invokes a remedy against an owner, the CHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the CHA will conduct an audit of the owner’s records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the CHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner’s record of compliance and the number and seriousness of any prior HAP contract violations.

**13-II.E. HAP Contract Term and Terminations**

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

**CHA Policy**

The CHA may elect to terminate the HAP contract in situations such as the following:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

Terminations subject to VAWA.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].
CHA Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the CHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the CHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. Change in Ownership / Assignment of the HAP Contract

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

CHA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

Within 10 calendar days of receiving the owner's request, the CHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the CHA that includes:

- A copy of the escrow statement or other closing documents showing the transfer of title;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment, not earlier than the 1st of the month following the new owner’s certification of ownership;
- A written agreement to comply with the terms of the HAP contract; and
- Confirmation that the new owner is not a prohibited relative.
If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the CHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the CHA will process the leasing in accordance with the policies in chapter 9.

CHA may not approve a change of ownership if the current owner owes any amounts to CHA. The owner must repay any outstanding debt.
Chapter 14—Program Integrity

Introduction

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

Code of Conduct— the CHA Ethics Policy

The CHA conducts business in accordance with the Board-approved Ethics Policy that:

a. Complies with the conflict of interest requirements of the HCV program cited in 24 CFR 982.161; and

b. Prohibits the solicitation or acceptance of gifts or gratuities in excess of a nominal value by an officer or employee of the PHA or any contractor, subcontractor, or agent of the PHA; and

c. Outlines administrative and disciplinary remedies for violation of the CHA.

The CHA informs all officers, employees, and agents of its organization of the Ethics Policy at the time of hire or appointment. The CHA also informs its contractors of the requirements at the initiation of their contracts.
Part I: Preventing, Detecting, and Investigating Errors and Program Abuse

14-I.A. Preventing Errors and Program Abuse

CHA Policy

The CHA anticipates that the vast majority of families, owners, and the CHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the CHA’s HCV program is administered effectively and according to the highest ethical and legal standards, the CHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The CHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The CHA will provide each applicant and participant with the publication Things You Should Know (HUD-1140-OIG) that explains the types of actions a family must avoid and the penalties for program abuse.

The CHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key CHA forms and form letters that request information from a family or owner.

The CHA staff will be required to review and explain the contents of all HUD- and the CHA-required forms prior to requesting family member signatures.

The CHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The CHA will provide each CHA employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. Detecting Errors And Program Abuse

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.
Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

CHA Policy

In addition to the SEMAP quality control requirements, the CHA will employ a variety of methods to detect errors and program abuse.

The CHA routinely will use available sources of up-front income verification including HUD’s EIV system to compare with family-provided information.

At each regular reexamination, current information provided by the family will be compared to information provided at the last regular reexamination to identify inconsistencies and incomplete information.

The CHA will compare family-reported income and expenditures to detect possible unreported income.

The CHA will monitor program actions through the use of its internal quality assurance program.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

CHA Policy

The CHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the CHA’s error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

CHA Policy

The CHA will encourage staff, program participants, and the public to report possible program abuse.
14-I.C. Investigating Errors and Program Abuse

When the PHA Will Investigate

CHA Policy

The CHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the CHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The CHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

CHA Policy

The CHA will base its evaluation on a preponderance of the evidence collected during its investigation.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the CHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the CHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

CHA Policy

In the case of family-caused errors or program abuse, the CHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, and (3) any mitigating circumstances related to the disability of a family member.

In the case of owner-caused errors or program abuse, the CHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on the family living in the unit.
Notice and Appeals

CHA Policy

The CHA will inform the relevant party in writing of its findings and remedies within 10 calendar days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the CHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

Part II: Corrective Measures and Penalties

14-II.A. Subsidy Under- or Over-Payments

A subsidy under-payment or over-payment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

CHA Policy

Increases in the family share will be implemented only after the family has received 30 calendar days notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Re-imbursement

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. Family-Caused Errors and Program Abuse

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.
Family Reimbursement to the PHA [HCV GB pp. 22-12 to 22-13]

CHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The CHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the CHA will terminate the family's assistance in accordance with the policies in Chapter 12.

PHA Reimbursement to Family [HCV GB p. 22-12]

CHA Policy

The CHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

CHA Policy

The CHA will consider factors such as the following as evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the CHA for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to the CHA Board of Commissioners, employees, contractors, or other CHA representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the CHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The CHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.
Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family’s assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. Owner-Caused Error or Program Abuse

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

**CHA Policy**

In cases where the owner has received excess subsidy, the CHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.
Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

  CHA Policy
  The CHA will consider factors such as the following as evidence of owner program abuse:

  - Charging the family rent above or below the amount specified by the CHA
  - Charging a security deposit other than that specified in the family’s lease
  - Charging the family for services that are provided to unassisted tenants at no extra charge
  - Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
  - Knowingly accepting incorrect or excess housing assistance payments
  - Offering bribes or illegal gratuities to the CHA Board of Commissioners, employees, contractors, or other CHA representatives
  - Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the CHA
  - Residing in the unit with an assisted family

Remedies and Penalties

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. PHA-Caused Errors or Program Abuse

The responsibilities and expectations of the PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA policies or the managing agents’ personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.
Repayment to the PHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff or managing agents [HCV GB. 22-12].

PHA Reimbursement to Family or Owner

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. The PHA will issue a check to the family for the amount of the underpayment. Funds for this reimbursement must come from the PHA’s administrative fee reserves [HCV GB p. 22-12].

Code of Conduct

The CHA conducts business in accordance with the Board-approved ethics policy that:

a. Complies with the conflict of interest requirements of the HCV program cited in 24 CFR 982.161; and

b. Prohibits the solicitation or acceptance of gifts or gratuities in excess of a nominal value by an officer or employee of the PHA or any contractor, subcontractor, or agent of the PHA.

c. Outlines administrative and disciplinary remedies for violation of the CHA Code of Conduct.

The CHA informs all officers, employees, and agents of its organization of the Code of Conduct.

Prohibited Activities

CHA Policy

The CHA will consider factors such as the following as evidence of program abuse by CHA staff or managing agents:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the CHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of CHA activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program
14-II.E. Criminal Prosecution

CHA Policy

When the CHA determines that program abuse by an owner, family, or CHA staff or managing agents has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the CHA will refer the matter as to the CHA Office of the Inspector General or other appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-II.F. Fraud and Program Abuse Recoveries

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.
Chapter 15—Special Housing Types [24 CFR 982 Subpart M]

Introduction

The PHA may permit a family to use any of the special housing types discussed in this chapter. Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that the PHA must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

CHA Policy

Families will be able to utilize the following special housing types:

- Single Room Occupancy housing
- Congregate housing
- Group homes
- Shared housing
- Cooperative housing
- Homeownership
- The CHA will not allow families that own a manufactured housing unit to lease home spaces or pads since such housing is prohibited by City law.

This chapter consists of the following six parts containing descriptions of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Homeownership
Part I: Single Room Occupancy
[24 CFR 982.602 through 982.605]

15-I.A. Overview

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

CHA Policy

The CHA does not permit the use of single room occupancy housing in its program except as a reasonable accommodation to a person with disabilities.

15-I.B. Payment Standard, Utility Allowance and HAP Calculation

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the PHA’s payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. Housing Quality Standards (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- **Access:** Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.

- **Fire Safety:** All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

  Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].
• **Sanitary Facilities:** At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.

• **Space and Security:** An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

### Part II: Congregate Housing

[24 CFR 982.606 through 982.609]

#### 15-II.A. Overview

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

#### 15-II.B. Payment Standard, Utility Allowance and HAP Calculation

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the 1-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident’s monthly housing expense only. The residents’ costs for food service should not be included in the rent for a congregate housing unit.
15-II.C. Housing Quality Standards

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.

The housing quality standards applicable to lead-based paint do not apply.

Part III: Group Home


15-III.A. Overview

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-III.B. Payment Standard, Utility Allowance and HAP Calculation

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on the PHA’s subsidy standard. If there is a live-in aide, the aide must be counted in determining the household’s unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.
The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. Housing Quality Standards

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- **Sanitary Facilities**: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.

- **Food Preparation and Service**: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.

- **Space and Security**: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

- **Structure and Material**: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.

- **Site and Neighborhood**: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
  - Dangerous walks or steps
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups
  - Sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash
  - Vermin or rodent infestation, and
  - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.
Part IV: Shared Housing
[24 CFR 982.615 through 982.618]

15-IV.A. Overview

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. Payment Standard, Utility Allowance and HAP Calculation

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the prorata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. Housing Quality Standards

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- **Facilities Available for the Family:** Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
• **Space and Security**: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

### Part V: Cooperative Housing

[24 CFR 982.619]

#### 15-V.A. Overview

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

#### 15-V.B. Payment Standard, Utility Allowance and HAP Calculation

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

#### 15-V.C. Housing Quality Standards

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

### Part VI: Homeownership

[24 CFR 982.625 through 982.643]

#### 15-VI.A. Overview

[24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance a PHA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. The PHA may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If the PHA offers both forms of assistance, a family must choose which form of assistance to receive.
The PHA must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

**CHA Policy**

The CHA has instituted a minimum homeowner down payment requirement of at least three percent of the purchase price, and requires that at least one percent of the purchase price come from the family's personal resources.

The CHA will offer the monthly homeownership assistance payments to qualified families.

**15-VI.B. Family Eligibility**

[24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA’s requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- 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 PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
• The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option.

• Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.

• Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

**CHA Policy**

The CHA will not establish a higher minimum income standard for disabled and/or non-disabled families.

Families will be considered “continuously employed” if the break in employment does not exceed four months.

The CHA will count self-employment in a business when determining whether the family meets the employment requirement.

The CHA will impose additional eligibility requirements. To be eligible to participate in the homeownership option, families must meet the following criteria:

- The family has had no family-caused violations of HUD’s Housing Quality standards within the past year.
- The family does not owe money to the CHA.
- The family has not committed any serious or repeated violations of a CHA-assisted lease within the past year.

**15-VI.C. Selection of Families**

[24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

**CHA Policy**

All families interested in the program that meet the eligibility requirements as defined in Section 15-VI.B. of this plan may participate in the homeownership option.

The CHA will offer a selection preference for participation in the tenant-based homeownership program to any family under a CHA public housing lease who is fully compliant with the Public Housing Program and provided the voucher is utilized for home mortgage assistance only.
15-VI.D. Eligible Units
[24 CFR 982.628]

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD’s “eligible housing” requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 property-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.
- For PHA-owned units all of the following conditions must be satisfied:
  - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
  - The unit is not ineligible housing;
  - The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.
15-VI.E. Additional PHA Requirements for Search and Purchase
[24 CFR 982.629]

It is the family’s responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family’s name on the waiting list for a voucher.

**CHA Policy**

The family will be allowed 180 days to identify a unit and submit a sales contract for review. The family will be allowed an additional 180 days to close on the home. The CHA may grant extensions to either of these periods for good cause. The length of the extension(s) will be determined on a case-by-case.

All requests for extensions must be submitted in writing to the CHA prior to the expiration of the period for which the extension is being requested. The CHA will approve or disapprove the extension request within 10 calendar days. The family will be notified of the CHA's decision in writing.

During these periods, the family will continue to receive HCV rental assistance in accordance with any applicable lease and HAP contract until the family vacates the rental unit for its purchased home.

The family will be required to report their progress on locating and purchasing a home to the CHA.

If the family cannot complete the purchase of a unit within the maximum required time frame, and is not receiving rental assistance under a HAP contract at the time the search and purchase time period expires, the family will be issued a voucher to lease a unit.

15-VI.F. Homeownership Counseling
[24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD’s Housing Counseling program.

**CHA Policy**

If required by the CHA, families must attend and complete post-purchase ongoing homeownership counseling.

**15-VI.G. Home Inspections, Contract of Sale and PHA Disapproval of Seller**

[24 CFR 982.631]

**Home Inspections**

The PHA may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may disapprove a unit for assistance based on information in the independent inspector’s report, even if the unit was found to comply with HQS.

**Contract of Sale**

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
disapproval of a seller

in its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

cha policy

when the family locates a home they wish to purchase and submits a copy of their purchase offer/contract, the CHA will conduct a housing quality standards (HQS) inspection within 10 calendar days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the homeownership program.

the family must hire an independent professional inspector, whose report must be submitted to the CHA for review. This inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer. The inspector may not be a CHA employee.

the CHA will review the professional report in a timely fashion and, based on the presence of major physical problems, may disapprove the purchase of the home.

if the CHA disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

the CHA will not conduct HQS inspections while the family is receiving homeownership assistance.

15-VI.H. Financing
[24 CFR 982.632]

the PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

the PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family’s ability to secure favorable financing terms.

cha policy

as a check against predatory lending, the CHA will review the financing of each purchase transaction, including estimated closing costs. The CHA will review the loans for features, such as balloon payments, adjustable rate mortgages, and unusually high interest rates, all of which are prohibited. The CHA also will not approve “seller financing” or “owner-held” mortgages. Beyond these basic criteria, the CHA will rely on the lenders to determine that the loan will be affordable to program participants.
The mortgage the family applies for must require a minimum down payment of at least 3% of the sales price with 1% of the down payment coming from the purchaser’s personal funds. The CHA will not require that the family have any more than the minimum of 1% of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by their lending institution.

The CHA will approve a family’s request to utilize its Family Self-Sufficiency escrow account for down payment and/or closing costs when purchasing a unit under the HCV homeownership option.

15-VI.I. Continued Assistance Requirements; Family Obligations
[24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

CHA Policy

The CHA does not conduct any additional inspections after the family moves into the unit.
15-VI.J. Maximum Term of Homeowner Assistance
[24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

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 disabled family, the exception applies if at any time during 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 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-VI.K. Homeownership Assistance Payments and Homeownership Expenses
[24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA’s discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.
Homeownership expenses (not including cooperatives) only include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- 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 costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

CHA Policy

The CHA’s housing assistance payment will be paid directly to the family. It will be the family’s responsibility to make the entire payment to the lender. The CHA may make an exception if the family requests the payment to go directly to the lender, and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, the CHA must pay the excess directly to the family.

The CHA will not grant relief, under any circumstances, from the requirement to automatically terminate homeownership assistance 180 calendar days after the CHA makes the last housing assistance payment on behalf of the family.

The CHA will allow the following homeownership expenses:

**Monthly homeownership payment.** This includes principal and interest on initial mortgage debt, taxes and insurance, and any mortgage insurance premium, if applicable.

**Utility allowance.** The CHA utility allowance for the unit, based on the current HCV utility allowance schedule.

**Monthly maintenance allowance and monthly major repair/replacement allowance.** The amount of the combined monthly maintenance allowance and the monthly major repair/replacement allowance will be $75 per month.

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**Monthly co-op/condominium assessments.** If applicable, the monthly amount of co-op or condominium association operation and maintenance assessments.

**Monthly principal and interest on debt for improvements.** Principal and interest for major home repair, replacements, or improvements, if applicable.

Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- 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; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

**15-VI.L. Portability**

[24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

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 promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.
15-VI.M. Moving with Continued Assistance
[24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance.
- At any time, the PHA may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the PHA’s policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

**CHA Policy**

For families participating in the homeownership option, requests to move will be approved and/or denied in accordance with CHA policies in Chapter 10.

The CHA will require additional counseling of any families who move with continued assistance.

15-VI.N. Denial or Termination of Assistance
[24 CFR 982.638]

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.
CHA Policy

The CHA will terminate a family’s homeownership assistance if the family violates any of the homeowner obligations listed in Section 1, as well as for any of the reasons listed in Section 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

In making its decision to terminate homeownership assistance, the CHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the CHA may, on a case-by-case basis, choose not to terminate assistance.

Termination notices will be sent in accordance with the requirements and policies set forth in Section 12-II.F.
Chapter 16—Program Administration

Introduction
This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA’s policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect the PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA’s responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA’s policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.
Part I: Administrative Fee Reserve
[24 CFR 982.155]

The PHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for the PHA's fiscal year. Since FY 2004, the use of administrative fee reserves, called Unrestricted Net Assets, is restricted to activities related to rental assistance under the HCV program, including development activities.

If the PHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the PHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

**CHA Policy**

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed $100,000 per occurrence without the prior approval of the CHA’s Board of Commissioners.

Part II: Setting Program Standards and Schedules

16-II.A. Overview

Although many of the program’s requirements are established centrally by HUD, the HCV program’s regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- **Payment Standards**, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- **Utility Allowances**, which specify how a family’s payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

**CHA Policy**

Copies of the payment standard and utility allowance schedules are available for review in the CHA’s offices during normal business hours.

The CHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.
16-II.B. Payment Standards
[24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area. However, HUD has established payment standards at the 50th percentile of rents in the Chicago metropolitan area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA’s jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a “basic range” established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards
When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA’s jurisdiction are unacceptably high 24 CFR 982.503(g)].

CHA Policy

The CHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the “basic range” the CHA will consider factors such as the following when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The CHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The CHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the CHA will consider increasing the payment standard. In evaluating rent burdens, the CHA will not include families renting a larger unit than their family unit size.

Quality of Units Selected: The CHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.
Changes in Rent to Owner: The CHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: The CHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: The CHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

The new payment standards are effective upon HUD publication of the new FMRs for any voucher holders who are leasing a unit for the first time or for program participants that are undergoing a regular reexamination with an effective date on or after the publication of the FMRs by HUD.

Exception Payment Standards

[982.503(c)]

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD’s sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions

[24 CFR 982.503(c)(2)(ii)]

Unit-by-unit exceptions to the PHA’s payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA’s payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.
CHA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the CHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

CHA under the terms of its MTW Agreement may approve special exception payment standards on a unit-by-unit basis up to 300 percent of the HUD published FMRs for the City of Chicago under a demonstration program to expand affordable housing choices within housing opportunity areas in the City of Chicago.

Decreases in the Payment Standard Below the Basic Range
[24 CFR 982.503(d)]

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. Utility Allowances
[24 CFR 982.517]

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

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

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the HCV Guidebook provides detailed guidance to the PHA about establishing utility allowance schedules.
Air Conditioning
An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

CHA Policy
The majority of housing units in the CHA’s jurisdiction does not include central air-conditioning and are not wired for tenant-installed air conditioners. Therefore, the CHA has not included an allowance for air-conditioning in its utility allowance schedule.

Reasonable Accommodation
HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions
The PHA must review its schedule of utility allowances each year, and must revise its allowance for a utility category if there has been a change of 10 percent or more in the utility rate since the last time the utility allowance schedule was revised.

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

Part III: Informal Reviews and Hearings

16-III.A. Overview
When the PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

The PHA is required to include in its administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-III.B. Informal Reviews
Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).
Decisions Subject to Informal Review
The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on unfavorable history involving criminal activity that disturbs the health and safety and peaceful enjoyment of the premises. (See Section 3-III. G)
- Denial of assistance based on information, investigation, background checks, and/or arrests or convictions of an unfavorable history that may be the result of domestic violence, sexual violence, dating violence, or stalking. (See Section 3-III.G.)

Informal reviews are not required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition

CHA Policy
The CHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the CHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant
[24 CFR 982.554(a)]
The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.
Scheduling and Holding an Informal Review

CHA Policy

A request for an informal review must be made in writing and delivered to the CHA either in person or by first class mail, by the close of the business day, no later than 10 calendar days from the date of the CHA's denial of assistance.

Except as provided in Section 3-III.G, the CHA will schedule and send written notice of the informal review within a reasonable time of the family's request and will hold the review within a reasonable time from the date of the family's request.

At the discretion of the CHA, mitigating factors may be considered for the admission of the applicant family.

Informal Review Procedures
[24 CFR 982.554(b)]

CHA Policy

Families have a right to legal representation during an Informal Review or an Informal Hearing. Legal representation is not allowed during any of the following events: new admission eligibility appointments, annual re-examination appointments, or interim re-examinations requested by the family.

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be given a copy of any record, including background checks, if the denial is based on criminal activity.

The applicant must be provided an opportunity to present written or oral objections to the decision of the CHA.

The person conducting the review will make a recommendation to the CHA, but the CHA is responsible for making the final decision as to whether assistance should be granted or denied.
Informal Review Decision
[24 CFR 982.554(b)]

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

**CHA Policy**

In rendering a decision, the CHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. The CHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the CHA will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, the CHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The CHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 30 calendar days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family does not appear at the scheduled time, and was unable to reschedule the informal review in advance due to the nature of the conflict, the family must contact the CHA by telephone or in writing within 24 hours of the scheduled informal review date, excluding weekends and holidays. The CHA will reschedule the informal review only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. The family must provide all requests and documentation of good cause in writing (via fax, email, mail, or hand-delivery) within 10 days. If the family misses the rescheduled informal review, the family's assistance will be denied.

16-III.C. Informal Hearings for Participants

The PHA must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:
Decisions Subject to Informal Hearing
Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family’s annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA’s subsidy standards
- A determination to terminate assistance for a participant family because of the family’s actions or failure to act, including, but not limited to criminal activity (see Chapter 3)
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family’s Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]
- A determination based on information, investigation, background checks, and or arrests or convictions to terminate assistance based on an unfavorable history that may be the result of domestic violence, sexual violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with HQS because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

**CHA Policy**

The CHA will only offer participants the opportunity for an informal hearing when required to by the regulations.
Informal Hearing Procedures

Notice to the Family

[24 CFR 982.555(c)]

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family’s annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family’s assistance, or the denial of a family’s request for an exception to the PHA’s subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

CHA Policy

In cases where the CHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the CHA.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family’s right to an explanation of the basis for the CHA’s decision.
- A statement of the family’s right to obtain copies of records upon which the decision is based at the expense of the family.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.

Scheduling and Holding an Informal Hearing

[24 CFR 982.555(d)]

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

CHA Policy

A request for an informal hearing must be made in writing and delivered to the CHA either in person or by first class mail, within 30 calendar days from the date of the CHA’s decision or notice to terminate assistance.
The CHA will schedule and send written notice of the informal hearing to the family and will hold the hearing within a reasonable time of the family’s request. If the family misses the scheduled hearing, the family’s assistance is terminated.

Prior to the date scheduled for the hearing, the family may submit a request in writing to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. The unavailability of the family representative or attorney is not good cause for rescheduling a hearing. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the CHA may request documentation of the “good cause” prior to rescheduling the hearing. If the family misses the rescheduled hearing, the family’s assistance is terminated.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the CHA in writing within 24 hours of the scheduled hearing date, excluding weekends and holidays. The CHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family misses the rescheduled hearing, the family’s assistance is terminated.

Pre-Hearing Right to Discovery

[24 CFR 982.555(e)]

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA’s expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, documents include records and regulations.

CHA Policy

The family will be allowed to copy any documents related to the hearing. The CHA may charge the family $.25 per page. The family must request discovery of the CHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

The CHA must be given an opportunity to examine at the CHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the CHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.
**Participant’s Right to Bring Counsel**

[24 CFR 982.555(e)(3)]

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

**Informal Hearing Officer**

[24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

**CHA Policy**

The CHA has designated staff to serve as hearing officers.

**Attendance at the Informal Hearing**

**CHA Policy**

Hearings may be attended by a hearing officer and the following applicable persons:

- A CHA representative(s) and any witnesses for the CHA
- The participant and any witnesses for the participant
- The participant’s counsel or other representative
- Any other person approved by the CHA as a reasonable accommodation for a person with a disability

**Conduct at Hearings**

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA’s hearing procedures [24 CFR 982.555(4)(ii)].

**CHA Policy**

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer. Furthermore, if disruptive behavior is displayed by the participant, the hearing officer will end the hearing and the participant' HCVP program assistance will be terminated.
Evidence

[24 CFR 982.555(e)(5)]

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

CHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence**: the testimony of witnesses

**Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the CHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence**: A tangible item relating directly to the case.

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Hearsay evidence will be admissible at the informal hearings; however, hearsay evidence alone cannot be used as the sole basis for the hearing officer’s decision.

If either the CHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer’s Decision

[24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.
CHA Policy

In rendering a decision, the hearing officer will consider the following matters:

**CHA Notice to the Family:** The hearing officer will determine if the reasons for the CHA’s decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if the CHA and the family were given the opportunity to examine any relevant documents in accordance with CHA policy.

**CHA Evidence to Support the CHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the CHA’s conclusion.

**Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and the CHA policies. If the grounds for termination are not specified in the regulations or in compliance with the CHA policies, then the decision of the CHA will be overturned.

The hearing officer will issue a written decision to the family and the CHA no later than 30 calendar days after the hearing. The report will contain the following information:

**Hearing information:**
- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the CHA representative; and
- Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the CHA’s decision.
**Order:** The hearing report will include a statement of whether the CHA’s decision is upheld or overturned. If it is overturned, the hearing officer will instruct the CHA to change the decision in accordance with the hearing officer’s determination. In the case of termination of assistance, the hearing officer will instruct the CHA to restore the participant’s program status.

**Procedures for Rehearing or Further Hearing**

**CHA Policy**

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the CHA will take effect and another hearing will not be granted.

In addition, within 30 calendar days after the date the hearing officer’s report is mailed to the CHA and the participant, the CHA or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 30 calendar day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the CHA to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

**PHA Notice of Final Decision**

[24 CFR 982.555(f)]

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, or decisions that exceed the authority of the hearing officer, or decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

**CHA Policy**

The CHA will mail a “Notice of Final Decision” including the hearing officer’s report, to the participant and their representative. This Notice will be sent by first-class mail. The participant will be mailed the original “Notice of Final Decision.” A copy of the “Notice of Final Decision” will be maintained in the CHA’s file.

**Grievance Procedure for Temporary Relocates**

Temporary Relocates under the PHA Leaseholder Housing Choice and Relocation Rights Contract will have rights under the PHA Grievance Procedures for a formal hearing as spelled out in the Resident Grievance Procedure and the PHA Leaseholder Housing Choice and Relocation Rights Contract, Section 11 (b).
16-III.D. Hearing and Appeal Provisions for Non-Citizens
[24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance
[24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process
[24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.
CHA Policy

The CHA will notify the family in writing of the results of the USCIS secondary verification within 15 calendar days of receiving the results.

The family must provide the CHA with a copy of the written request for appeal and proof of mailing within 15 calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

CHA Policy

The CHA will send written notice to the family of its right to request an informal hearing within 15 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants

[24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family’s eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.
CHA Policy

The family will be allowed to copy any documents related to the hearing. The CHA may charge the family $.25 per page. The family must request discovery of CHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

CHA Policy

The CHA will not provide a transcript of an audio taped hearing.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 30 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents
[24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents
[24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:
• The application for assistance
• The form completed by the family for income reexamination
• Photocopies of any original documents, including original USCIS documents
• The signed verification consent form
• The USCIS verification results
• The request for a USCIS appeal
• The final USCIS determination
• The request for an informal hearing
• The final informal hearing decision

Part IV: Owner or Family Debts to the PHA

16-IV.A. Overview
The PHA is required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the PHA’s policies for recovery of monies that have been overpaid on behalf of families, or to owners.

CHA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the CHA holds the owner or participant liable to return any overpayments to the CHA.

The CHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the CHA, the CHA will utilize other available collection alternatives including, but not limited to, the following:

• Collection agencies
• Small claims court
• Civil law suit
16-IV.B. Repayment Policy

Owner Debts to the PHA

CHA Policy

The CHA will collect any overpayments to an owner by reducing the future HAP payments to the owner by the amount owed until the debt is paid in full. If the reduction of HAP payments is not possible, any amounts due to CHA by an owner must be repaid by the owner.

If the owner refuses to repay the debt or does not repay the debt, the CHA will abate the debt from future payments made to the owner through participation in the program. Furthermore, if the amount owed by the owner is not repaid, or the owner leaves the program, the CHA will pursue other modes of collection, including referral to the Inspector General, litigation and debt collection agencies. If the owner seeks to be discharged from the debt through a bankruptcy filing, and if the debt is due to fraud against the program, the CHA will object to the discharge of the debt.

Family Debts to the PHA

CHA Policy

Any amount due to the CHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt, the CHA may offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the CHA will terminate the assistance upon notification to the family, and shall then pursue other modes of collection. If the participant seeks to be discharged from the debt through a bankruptcy filing, and if the debt is due to fraud against the program, the CHA will object to the discharge of the debt in addition to terminating assistance to the participant.

If any member of the household has a repayment agreement with CHA and the member is removed from the family composition, the debt will be transferred to the succeeding head of household and co-head or spouse.

By entering a Repayment Agreement with the Participant, the CHA does not waive its right to pursue a termination for the underlying cause which gave rise to the outstanding debt in the event the Participant breaches the Repayment Agreement.

Repayment Agreement

[24 CFR 792.103]

The term repayment agreement refers to a formal document signed by a tenant and provided to the PHA in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.
Repayment Agreement Guidelines

Down Payment Requirement

CHA Policy

The CHA will enter into repayment agreements for amounts not to exceed $5,000. The CHA will not enter into repayment agreements for amounts greater than $5,000 and will terminate the participant from the program. CHA will pursue other modes of collection, including referral to the Inspector General.

Upon execution of a repayment agreement, the family must pay either the balance owed to the CHA or a down payment of $500 and minimum payments of $75 for a period that shall not exceed 24 months.

CHA does not have a hardship exception. The family must comply with the Repayment Agreement Guidelines despite any change in circumstances beyond the family’s control.

Payment Thresholds

CHA Policy

Amounts of $2,000 or less must be repaid within 12 months.

Amounts of more than $2,000 must be repaid within 24 months.

Execution of the Agreement

CHA Policy

The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

Due Dates

CHA Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the first business day after the 15th.

Non-Payment

CHA Policy

The family must make its payment by the date due. If the payment is not received by the due date, the family has breached the repayment agreement and the CHA will terminate assistance upon written notification to the family.
No Offer of Repayment Agreement

CHA Policy

The CHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

The CHA will only enter into 1 repayment agreement with a family during the family’s tenure on the program. Subsequent events will be automatic grounds for termination.

Part V: Management Assessment (SEMAP)

16-V.A. Overview

The Section Eight Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA’s failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP Certification

[24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the HCV program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”
A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

**HUD Verification Method**
Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA’s certification on the indicator due to the PHA’s failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

**CHA Policy**
The CHA is a Moving-to-Work agency and under its current agreement the CHA is not required to certify to SEMAP. Language related to SEMAP in this plan is for reference purposes only.

**16-V.C. SEMAP Indicators**
[24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.
### SEMAP Indicators

<table>
<thead>
<tr>
<th>Indicator 1: Selection from the waiting list</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Score: 15</strong></td>
</tr>
<tr>
<td>• 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.</td>
</tr>
<tr>
<td>• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA’s written policies, according to the PHA’s quality control sample.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator 2: Rent reasonableness</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Score: 20</strong></td>
</tr>
<tr>
<td>• 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.</td>
</tr>
<tr>
<td>• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA’s quality control sample.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator 3: Determination of adjusted income</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Score: 20</strong></td>
</tr>
<tr>
<td>• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</td>
</tr>
<tr>
<td>• Points are based on the percent of files that are calculated and verified correctly, according to the PHA’s quality control sample.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator 4: Utility allowance schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Score: 5</strong></td>
</tr>
<tr>
<td>• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.</td>
</tr>
<tr>
<td>• Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA’s certification.</td>
</tr>
<tr>
<td>Indicator 5: HQS quality control inspections</td>
</tr>
<tr>
<td>---------------------------------------------</td>
</tr>
<tr>
<td><strong>Maximum Score: 5</strong></td>
</tr>
<tr>
<td>• This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.</td>
</tr>
<tr>
<td>• Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator 6: HQS enforcement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Score: 10</strong></td>
</tr>
<tr>
<td>• This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension or the PHA took appropriate action..</td>
</tr>
<tr>
<td>• Points are based on whether the PHA took appropriate action when the responsible party failed to correct all HQS deficiencies in accordance with required time frames, according to the PHA’s certification.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator 7: Expanding housing opportunities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Points: 5</strong></td>
</tr>
<tr>
<td>• Only applies to PHAs with jurisdiction in metropolitan FMR areas.</td>
</tr>
<tr>
<td>• This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA’s jurisdiction; and supplies a list of owners/property managers or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.</td>
</tr>
<tr>
<td>• Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA’s certification.</td>
</tr>
</tbody>
</table>
### Indicator 8: FMR limit and payment standards

**Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA’s jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA’s certification.

### Indicator 9: Annual reexaminations

**Maximum Points: 10**

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

### Indicator 10: Correct tenant rent calculations

**Maximum Points: 5**

- This indicator shows whether the PHA correctly calculates the family’s share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

### Indicator 11: Pre-contract HQS inspections

**Maximum Points: 5**

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.
### Indicator 12: Annual HQS inspections

**Maximum Points: 10**

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

### Indicator 13: Lease-up

**Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data reported to HUD through the PHA’s VMS reporting.

### Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances

**Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.
### Success Rate of Voucher Holders
**Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn’t effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

### Deconcentration Bonus Indicator
**Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.
Part VI: Record Keeping

16-VI.A. Overview
The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual’s privacy rights.

16-VI.B. Record Retention
[24 CFR 982.158]
During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for the PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

The PHA must also keep the last three years of the form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date.

If an informal hearing to establish a family’s citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.
16-VI.C. Records Management

The PHA must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

**CHA Policy**

All applicant and participant information will be kept in a secure location and access will be limited to authorized CHA staff.

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

**Privacy Act Requirements**

[24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

**Upfront Income Verification (UIV) Records**

PHAs accesses UIV data through HUD’s Enterprise Income Verification (EIV) System and is required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

**CHA Policy**

Prior to utilizing HUD’s EIV system, the CHA will adopt and implement EIV security procedures in accordance with HUD requirements.

**Criminal Records**

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].
The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by the PHA other than under 24 CFR 5.905.

**Medical/Disability Records**
The PHA is not permitted to inquire about the nature or extent of a person’s disability. The PHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. The PHA will destroy the document.

**Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level**

**16-VII.A. Overview**
The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

**16-VII.B. Reporting Requirement**
[24 CFR 35.1225(e)]

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within seven calendar days of being so notified by any other medical health care professional.

**CHA Policy**

The CHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

**16-VII.C. Data Collection and Record Keeping**
[24 CFR 35.1225(f)]

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.
At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

CHA Policy
The CHA provides an updated list of the addresses of units receiving assistance under the HCV program to the local public health department(s) four times a year.

Part VIII: Determination of Insufficient Funding

16-VIII.A. Overview
The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the PHA’s ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. Methodology
CHA Policy
The CHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the CHA’s annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the CHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month’s average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. CHA will not consider the cost of vouchers issued that are not under HAP contract in making this determination. If the total annual HAP needs equal or exceed the annual budget authority, or if the CHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the CHA will be considered to have insufficient funding.


16-IX.A. Notification to Participants
[Pub.L. 109-162]

VAWA requires PHAs to notify HCV program participants of their rights under this law, including their right to confidentiality and the limits thereof.
CHA Policy
The CHA will provide all participants with notification of their protections and rights under VAWA at the time of admission and at regular reexamination.

The notice will explain the protections afforded under the law, inform the participant of CHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The CHA will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).

16-IX.B. Notification to Applicants

CHA Policy
The CHA will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of CHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The CHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

16-IX.C. Notification to Owners and Managers
[Pub.L. 109-162]

VAWA requires PHAs to notify owners and managers of their rights and responsibilities under this law.

CHA Policy
The CHA will inform property owners and managers of their screening and termination responsibilities related to VAWA. The CHA may utilize any or all of the following means to notify owners of their VAWA responsibilities:

- As appropriate in day to day interactions with owners and managers.
- Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.
- Signs in the CHA lobby and/or mass mailings which include model VAWA certification forms.
Chapter 17—Property-Based Vouchers

Introduction
This chapter describes the CHA policies related to the property-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the CHA process for selecting proposals, the type of housing that is eligible to receive PBV assistance, subsidy layering requirements, and site selection policies.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Substantially Rehabilitated and Newly Constructed Units. This part describes the CHA policies related to the development and completion of substantially rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the CHA’s discretion.

Part VI: Selection of PBV Program Participants. This part describes the policies governing how the CHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be re-determined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.
PART I: General Requirements

17-I.A. Overview
The CHA will operate a property-based voucher program using a portion of its HCV budget authority for property-based assistance.

PBV assistance may be awarded to existing housing or substantially rehabilitated or newly constructed housing.

17-I.B. Tenant-Based Vs. Property-based Voucher Assistance
Except as otherwise noted in this chapter, the CHA policies for the tenant-based voucher program also apply to the PBV program and its participants.

PART II: PBV Owner Proposals

17-II.A. Overview
This section describes the CHA’s policies for owner submission of PBV proposals and for the CHA’s selection of PBV proposals.

17-II.B. Owner Proposal Selection Process
The CHA will select PBV proposals by any of the following three methods.

- **PBV Request for Proposals.** The CHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the CHA request. The CHA will not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

- **Proposals that were previously selected based on a competition.** The CHA may consider an application and select a proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program (e.g., home, and units for which competitively awarded low income housing tax credits have been provided) that included a competitive process. The CHA considers such applications only if the housing was competitively selected within three years of the PRA proposal selection date and where the earlier competitive proposal did not involve any consideration that the project would receive property-based voucher assistance.

- **Joint Requests for Proposals with the City and State.** In order to both maximize the impact of its property-based vouchers and to minimize the number of application processes developers face, the CHA may distribute property-based assistance via competitive processes for other affordable housing funds. In particular, the CHA will seek to link the award of property-based assistance to releases of affordable housing funds from the City of Chicago and the State of Illinois.

**Solicitation and Selection of PBV Proposals**
The CHA will announce the availability of property based vouchers and advertise its request for proposals (RFP) for existing, substantially rehabilitated and newly constructed housing by posting notice on its website at http://www.thecha.org/

In order for a proposal to be considered, the owner must submit a complete proposal to the CHA that responds to all the requirements in the RFP. The CHA will not review any incomplete proposals and will return any such proposals to the owner.
Using criteria in the RFP, CHA may select proposals that have less restrictive tenant screening requirements in the approved Tenant Selection Plan than those defined in the CHA Admin Plan for determining program eligibility in supportive housing developments where supportive services may assist low-income participants in obtaining and maintaining affordable housing. All tenant screening requirements in the Tenant Selection Plan must meet minimum HUD requirements for eligibility.

The CHA will evaluate each proposal on its merits using the factors in the RFP that will include, but are not limited to:

- Extent to which the property furthers the CHA goal of de-concentrating poverty and expanding housing and economic opportunities; and

- Extent to which the proposal complements other local activities, such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, Renewal Community or Neighborhood Stabilization Program.

**CHA-Owned Units**

The CHA may provide PBV assistance to the CHA-Owned units only if HUD or a HUD-approved independent entity determines that the CHA-Owned units were appropriately selected.

In addition, the following program services will be performed by the HUD-approved independent entity:

1. Determine the amount of rent for the PBV assisted units.
2. Establish initial contract rents based on an appraisal conducted by a licensed, state certified appraiser.
3. Perform inspections of the PBV assisted units in accordance with Housing Quality Standards.

The CHA may compensate the independent entity and appraiser from the CHA’s MTW block grant. The CHA, independent entity, and appraiser will not charge families any fee for the appraisal or the services provided by the independent entity.

**CHA Notice of Owner Selection**

The CHA will notify owners in writing of the developments selected and not selected for the PBV assistance. The CHA will also announce the development selections on the CHA PRA website at http://www.thecha.org/PRA

**17-II.C. Housing Type**

The CHA may provide PBV assistance for units in existing housing. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of the CHA selection, the units substantially comply with HQS.

The CHA may also provide PBV assistance to substantially rehabilitated or newly constructed housing. For substantial rehabilitation or new construction developments, the owner must enter into an Agreement to Enter into a Housing Assistance Payments Contract (AHAP).
17-II.D. Prohibition of Assistance for Certain Units

Ineligible Housing Types
The CHA will not provide PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities, such as: supportive living facilities in Illinois); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing.

In addition, the CHA will not provide PBV assistance for a unit occupied by an owner and by a family ineligible for participation in the PBV program. Homeownership assistance may not be provided in the PBV program. Units in the PBV program are not eligible for the CHA’s Homeownership Program.

High-rise Elevator Properties for Families with Children
The CHA will use elevator properties for families with children. The CHA has determined that there is no practical alternative to the use of elevator properties for families with children.

Subsidized Housing
The CHA will not provide PBV assistance to units in the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy (a subsidy that pays all or any part of the rent);
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a CHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- Section 202 property for non-elderly with disabilities;
- Section 811 property-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement property;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local governmental housing subsidy, as determined by HUD or the CHA in accordance with HUD requirements.
17-II.E. Subsidy Layering Requirements
The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

The HAP contract with CHA contains the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review.

In lieu of submitting PBV proposals to HUD for a subsidy layering review, the CHA will rely on the subsidy layering reviews conducted by the State of Illinois or the City of Chicago. By executing the HAP contract, the owner certifies that the property has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review.

17-II.F. Cap on Number of PBV Units in Each Property
The CHA will cap the number of PBV units in each property on a case-by-case basis.

17-II.G. Site Selection Standards

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards
It is the CHA goal to select sites for PBV housing that provide for de-concentrating poverty and expanding housing and economic opportunities. To achieve this goal the CHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less. However, the CHA may grant exceptions to the 20 percent standard where the CHA determines that the PBV assistance will complement other local redevelopment activities designed to de-concentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located is in a HUD-designated Enterprise Zone, Economic Community, Renewal Community, or Neighborhood Stabilization Program Area;
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of State of Illinois or City of Chicago, or federal dollars invested in the area;
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.
Site and Neighborhood Standards for All PBV Assisted Developments
The CHA will not enter into an AHAP for substantial rehabilitation and new construction nor enter into a HAP contract for existing housing until it has determined that the site complies with the following HUD site and neighborhood standards:

- Is adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Has adequate utilities and streets available to service the site;
- Is accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons; and
- Except for housing designed for elderly persons, is located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

Additional Site and Neighborhood Standards for New Construction Developments Only
Newly constructed housing must also meet the following HUD standards:

- The site must not be located in an area of minority concentration unless the CHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed property outside areas of minority concentration or that the property is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the property will cause a significant increase in the proportion of minority to non-minority residents in the area; and
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate.

17-II.H. Environmental Review
The CHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The CHA will not enter into an AHAP to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements. For the purposes of performing the environmental review, the CHA will engage the City of Chicago or the State of Illinois, both of which are HUD-approved responsible entities, or HUD, as appropriate.

The CHA will supply all information necessary for the responsible entity to perform any required environmental review. If mitigating measures are required as a result of the environmental review, the CHA will require the owner to complete them before entering into an AHAP or HAP.
Part III: Dwelling Units

17-III.A. Overview
This part identifies the special housing quality standards, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections that apply to the PBV program.

17-III.B. Housing Quality Standards
The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The uniform physical condition standards (UPCS at 24 CFR 5.703) do not apply to the PBV program.

In general, the CHA or its contractors will inspect units in accordance with the requirements stated below and in Chapter 8. Alternatively, subject to HUD approval of the CHA’s MTW Plan, the CHA may use the City of Chicago’s Certificate of Occupancy for the initial lease-up of newly constructed and substantially rehabilitated housing. In order to reduce duplicative inspections, the CHA may also utilize the City’s and/or the Illinois Housing Development Authority’s inspections for those properties that are receiving assistance and oversight from City agencies.

In addition, as approved in its MTW Plan, the CHA may approve owners/property managers to conduct HQS inspections at least annually for all units and for turnover units. In such instances, the property manager will submit a certification that inspections were completed by the anniversary date and the CHA will conduct a comprehensive quality control review of such inspections to assure that they are performed in accordance with the inspection procedures in this Chapter and Chapter 8. In addition, the property manager must provide the CHA with building certifications such as those for boilers and elevators as required by the City of Chicago.

If the CHA is notified by the City of Chicago that a property leased under the PBV program does not meet the local building code, the CHA will consider the property as failing HQS. Owner failure to make the necessary repairs within the City’s required timeframe may result in termination of the HAP Contract.

If the property manager does not certify that the inspections were completed by the anniversary date, the CHA will abate the HAP for all units in the project until the required inspections are completed.

If a unit fails a CHA quality control inspection, the CHA will abate the HAP in accordance with the abatement procedures in Chapter 8.

Lead-based Paint

17-III.C. Housing Accessibility for Persons with Disabilities
The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The CHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD’s regulations at 24 CFR 8, subpart C.
Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. Inspecting Units

Pre-selection Inspection
In order to determine that the site meets site and neighborhood standards, the CHA will examine the proposed site for substantially rehabilitation and new construction housing before the proposal selection date.

Prior to the proposal selection date, existing housing must be inspected to determine that the property substantially complies with HQS. As authorized in its MTW Plan, the CHA may either inspect or use inspection results from the City of Chicago, IHDA, or another governmental entity evidencing that the property substantially complies with HQS. However, the CHA will not execute the HAP contract for existing housing until the units fully comply with HQS.

Pre-HAP Contract Inspections
For existing housing, the CHA may accept units for placement under a PRA HAP contract either by a documented HQS “pass” inspection report or by the City’s Certificate of Occupancy issued within twelve (12) months of the PRA HAP contract execution.

If a unit passes an HQS pre-selection HQS inspection, an additional inspection is not required if the HAP contract is entered into within a reasonable period of time not exceeding 12 months.

For properties involving new construction or substantial rehabilitation, the CHA will consider issuance of a Certificate of Occupancy by the City of Chicago as evidence of the property’s compliance with HQS.

If the unit passes the pre-HAP contract inspection a subsequent inspection is not required at the time of initial occupancy of the unit.

Turnover Inspections
As authorized in its MTW Plan, the CHA may inspect or require the owner/agent to inspect the unit before providing assistance to a new family in a contract unit. The CHA will not provide assistance on behalf of the family until the unit fully complies with HQS based on the CHA’s inspection or the owner/agent’s certification that the unit meets HQS.

Annual Inspections
At least annually during the term of the HAP contract, the CHA will perform quality control inspections of a percentage of randomly selected contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

Based on the inspection results, the CHA will determine if additional units need to be inspected and may inspect a larger sample or 100 percent of the contract units in a building or development.

Other Inspections
The CHA will inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The CHA will take into account complaints and any other information coming to its attention in scheduling inspections. The CHA may rely on inspection reports by other governmental entities to determine compliance.
The CHA may conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting the CHA supervisory quality control HQS inspections, the CHA will include a representative sample of both tenant-based and property-based units.

**Inspecting CHA-Owned Units**

In the case of CHA-Owned units, the inspections must be performed by an independent agency approved by HUD. The independent entity must furnish a copy of each inspection report to the CHA and to the HUD field office where the property is located. The CHA must take all necessary actions in response to inspection reports from the independent agency.

**PART IV: Substantial Rehabilitation and New Construction**

**17-IV.A. Overview**

This part describes the PBV assistance requirements unique to substantially rehabilitated or newly constructed housing that do not apply to PBV assistance in existing housing.

Housing selected as substantial rehabilitation and new construction cannot at a later date be selected for PBV assistance as existing housing.

**17-IV.B. Agreement to Enter into HAP Contract**

In order to offer PBV assistance in substantially rehabilitated or newly constructed units, the CHA must enter into an Agreement to Enter into HAP Contract (AHAP) with the owner of the property. The AHAP must be in the form required by HUD.

In the AHAP, the owner agrees to develop the PBV contract units to comply with HQS, and the CHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the CHA will enter into a HAP contract with the owner for the contract units.

**Execution of the AHAP**

The CHA will enter into the AHAP with the owner after receiving both environmental approval and notice that subsidy layering requirements have been met.

**17-IV.C. Conduct of Development Work**

**Labor Standards**

If the development has nine or more units (whether or not completed in stages) proposed for PBV assistance, the owner, the owner’s contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the rehabilitation or new construction of housing.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The CHA will monitor compliance with labor standards.
Equal Opportunity
The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure
The AHAP and HAP contracts must include a certification that the owner and other property principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

17-IV.D. Completion of Housing
The AHAP must specify deadlines for completion of the housing and for submission by the owner of evidence of completion.

Evidence of Completion
The CHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV property. The CHA will specify any additional documentation requirements in the AHAP.

CHA Acceptance of Completed Units
Upon notice from the owner that units have been completed and the City of Chicago has provided a Certificate of Occupancy, the CHA will determine if the housing has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion.

If the CHA determines the work has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion, the CHA will submit the HAP contract for execution by the owner and then execute the HAP contract.

If the work has not been completed in accordance with the AHAP, the CHA will not enter into the HAP contract.

PART V: Housing Assistance Payments Contract (HAP)

17-V.A. Overview
The CHA will enter into a HAP contract with an owner for units that are covered by PBV assistance, the HAP governs how the CHA will pay housing assistance for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD or the form developed by the CHA under MTW.

Execution of the HAP Contract
For existing housing, the HAP contract will be executed after the CHA determines that units pass HQS.

For substantially rehabilitated or newly constructed housing, the HAP contract will be executed after the CHA determines that the units have been completed in accordance with the AHAP to enter into HAP, the City has issued a Certificate of Occupancy for the units, and the owner has submitted all required evidence of completion.
The CHA may place units under HAP contract in stages. There is a single effective date, annual anniversary and expiration date for all units under a PBV HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates), See Section 17.V.C.

**Term of HAP Contract**

The CHA under its MTW Program may enter into a HAP contract for an initial term of no less than one year and no more than thirty years subject to the availability of funding.

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

Within one year before expiration of the HAP contract, the CHA may extend the term of the contract for a maximum term, which shall not to exceed thirty years. In making this determination, the CHA will consider if an extension is appropriate to continue providing affordable housing for low-income families. All extensions are subject to the conditions prescribed by the CHA at the time of the extension.

When determining whether or not to extend an expiring PBV contract, the CHA will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner’s record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of de-concentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

**Rent Payments during Initial Operating Period**

This activity is subject to HUD’s final Authorization. To assure the financial integrity of the PBV property at the time of initial occupancy, the CHA may provide pre-occupancy payments to the owner during the initial occupancy phase following the execution of the PRA HAP contract. The CHA may make a payment of 50% of the contract rent for two months for any unoccupied PRA units. In some instances, the CHA may elect to make an additional payment of 100% of the contract rent for one month for unoccupied PRA units. Under no circumstances will the CHA make pre-occupancy payments for a total of more than 90 calendar days for any unit in the property.

**Termination by CHA**

The HAP contract provides that the term of the CHA’s contractual commitment is subject to the availability of sufficient funding to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If the CHA determines there is insufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the CHA may terminate the HAP contract by providing notice in accordance with the HAP contract.

**Termination by Owner**

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the CHA. In this case, families living in the contract units must be offered tenant-based assistance.
Remedies for HQS Violations
The CHA will abate and terminate units under PBV HAP contracts for non-compliance with HQS in accordance with the policies and procedures used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.B. Amendments to the HAP Contract

Substitution of Contract Units
At the CHA’s discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same contiguous development or scattered site property as a previously covered contract unit. Prior to the contract amendment, the CHA must inspect the proposed unit to determine HQS compliance. However, for substantially rehabilitated or new construction housing where the proposed unit has never been occupied, the CHA may use the Certificate of Occupancy in lieu of an inspection. The CHA must also determine the reasonable rent for the unit or may use the current contract rents for comparable units in the development or scattered site.

Addition of Contract Units
The CHA may amend a HAP contract during the three-year period following the execution date of the HAP contract to add additional PBV units in the same property. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

The CHA will consider adding contract units to the HAP contract when the CHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.

17-V.C. HAP Effective, Anniversary and Expiration Dates
The effective date for a PBV HAP contract is the date that initial units become eligible for HAP payment. There is a single effective and expiration date for each PBV HAP contract. The dates do not change even in cases where contract units are placed under the HAP contract in stages or units are added by amendment.

The annual anniversary is the first day of the calendar month that corresponds with the PBV HAP contract effective date.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.
17-V.D. Owner Responsibilities Under the HAP

When the owner executes the HAP contract the owner certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the CHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

17-V.E. Additional HAP Requirements

Housing Quality and Design Requirements

The CHA will identify the need for any special features relating to the quality, architecture, and design of PBV housing on a case-by-case basis depending on the intended occupancy of the PBV property. The CHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the AHAP, and the HAP contract.

The CHA requires the owner to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the CHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

Vacancy Payments

At the discretion of the CHA, the HAP contract may provide for vacancy payments to the owner for a CHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the CHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant’s security deposit).

The CHA will decide on a case-by-case basis if the CHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.
Part VI: Selection of PBV Program Participants

17-VI.A. Overview
This part describes policies related to eligibility and admission to the PBV program that are unique from those for the tenant-based program.

17-VI.B. Eligibility For PBV Assistance
The CHA will determine an applicant family’s eligibility for the PBV program in accordance with the policies in Chapter 3. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be re-determined at the commencement of PBV assistance.

In-Place Families
An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the CHA is considered an “in-place family.” If a unit to be placed under contract (either an existing unit or a unit requiring substantial rehabilitation) is occupied by an eligible family on the date the proposal is selected, the CHA will process the family as a Special Admission. Admission of eligible in-place families is not subject to income targeting requirements. However, all other eligibility requirements apply.

17-VI.C. Organization of the Waiting List
For its PBV program, the CHA maintains:

- A separate waiting list for the property-based program in a manner that allows families to indicate preferences for geographic areas in the City of Chicago, and
- A separate citywide waiting list for the supportive housing program.

To ensure the units in PBV properties are fully occupied, the CHA may keep the waiting lists open for families that meet particular preferences and are referred to the CHA for placement on the waiting lists by City and State agencies or authorized local social service agencies. For example, if families must meet site-specific tenant selection preferences (e.g., supportive housing for homeless individuals), the CHA may accept applications limited to eligible families that meet such preferences.

For properties participating in the CHA’s Property Rental Assistance Program, 50% of the applicants will be selected from the property-based waiting list and 50% from the public housing program, including the city wide public housing waiting list, state authorized lists and Relocatees under the CHA Relocation Rights Contract (RRC) whose right of return or return preference to final replacement housing has not been satisfied.

17-VI.D. Selection from the Waiting List
Applicants who will occupy units with PBV assistance will be selected from the CHA’s property-based waiting list. The CHA may establish selection criteria or preferences for occupancy of particular PBV units. The CHA will place families referred by the PBV owner on the property-based waiting list.

Units with Accessibility Features
When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the CHA must first refer families who require such features to the owner.
Priorities and Preferences

Priorities:

Priority for admission to PBV developments will be given to families that:

- Live in a property at the time of owner proposal selection for property-based assistance will be given the highest preference for occupancy of a unit in the property; or

- Live in the CHA public housing developments that, without supportive services, will not be able to sustain lease compliance and therefore run the risk of becoming homeless (for supportive services units only); or

- Are covered under the CHA Relocation Rights Contract (RRC) whose right of return or return preference to final replacement housing has not been satisfied.

Such families are not required to be on the property-based waiting list prior to admission to the PBV Program and will be processed similar to special admissions for the tenant-based voucher program. The CHA will maintain documentation verifying the priority and eligibility of such families.

Preferences:

The CHA will provide preferences, with the working preference having priority over all other preferences. The preferences are for families that:

- Qualify for the CHA HCV working preference at the time that they are selected from the Waiting List. To meet this preference, adult household members must:
  - Work at least 20 hours per week. This requirement may be met by combination of work and no more than 10 hours per week in volunteer activities or enrollment in an accredited education, employment and job training programs; or
  - Be a person with disabilities or over 62 years.

- Live or work in the neighborhood of properties receiving PBV assistance (to be determined on a property-by-property basis); or

- Include persons with disabilities who need services offered at a particular property or site if the preference is limited to families (including individuals):
  - With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
  - Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
  - For whom such services cannot be provided in a non-segregated setting.
In advertising such a property, the owner may advertise the property as offering services for a particular type of disability. However, the property will be open to all otherwise eligible disabled persons who may benefit from services provided in the property. In these properties, disabled residents will not be required to accept the particular services offered as a condition of occupancy.

Where occupancy of PBV properties or units is limited to the homeless, seniors, families with persons with disabilities, families needing supportive services, veterans, or families needing assisted living, the CHA will give preference to families that meet the specific requirements for occupancy.

The CHA maintains separate preferences for the tenant-based HCV program (See Chapter 4).

**Verification of Preference Status**
The CHA will verify eligibility for local preferences as follows:

- **For families that qualify for the work preference:**
  The CHA will verify the preference using the verification procedures for work, and job training status as provided in Chapter 7 of the Administrative Plan.

- **For families who live or work in the neighborhood of properties receiving PBV assistance:**
  The CHA will verify residency using a recent copy of a utility bill mailed to the family, driver's license, or similar document as evidence of residence. The CHA will use a recent pay stub or statement from the employer as evidence of the family’s employment in the neighborhood.

- **For families living in the CHA public housing developments that, without supportive services, will not be able to sustain lease compliance and therefore run the risk of becoming homeless:**
  The CHA will verify that the family requires supportive services (for selection for supportive services units only.)

- **For homeless families or individuals:**
  The CHA will verify the person’s eligibility with the City of Chicago or other entity that works with the provision of food, temporary shelter, or other services to the homeless population.

**Owner Referrals**

Beginning 180 days from initial occupancy of new construction and substantial rehabilitation developments the CHA may begin referring applicants from the existing property-based waiting list for screening by the owner. Within 90 days of initial occupancy, the owner may refer applicants from the development's waiting list for certification of eligibility if all units have not been leased to families on the property-based waiting list. Once the proposed family’s eligibility and preference status is determined by the CHA, the CHA will then immediately place the family on the property-based waiting list and process their application.

For existing housing, the CHA will refer applicants for vacant contract units for the first 30-60 days after HAP contract execution. The CHA may allow direct owner referrals of applicants after 30-60 days of unsuccessful attempts by the owner to process referrals from the CHA’s waitlists.
17-VI.E. Offer of PBV Assistance

Refusal of Offer
Upon selection of a family from the property-based waiting list and determination of family eligibility, the CHA will refer the family to the appropriate development for screening by the owner. If the family declines the first offer of a PBV unit, the CHA will make one more offer, which will be for a different PBV property.

The CHA will not remove the family’s name from the property-based waiting list if the family’s refusal of the two offers is based on good cause approved by the CHA. Some examples of good cause include a unit that does not have the necessary accessibility features required by a person with disabilities, the unit is not convenient to public transportation needed for the family to work, or a serious illness, hospitalization or death of a family member.

If an applicant declines two offers of PBV units, the CHA will not remove the family’s name from the tenant-based waiting list.

If an applicant leases a unit in a PBV property, the CHA will remove the family’s name from both the property-based waiting list and the tenant-based waiting list.

Disapproval by Owner/property manager
If a PBV owner rejects a family for admission to the owner’s units, such rejection will not affect the family’s position on the property-based voucher waiting list. The CHA will review the owner’s rejections to ensure that it meets the property’s tenant selection criteria and does not conflict with City of Chicago, State of Illinois, and federal law. Should the CHA determine that the owner is rejecting families without good cause or in violation of the law, the CHA will exercise remedies under the HAP contract and other laws.

Acceptance of Offer
Family Briefing
When a family accepts an offer for PBV assistance, the CHA will brief the family information on how the program works and the responsibilities of the family and owner.

The CHA will provide a briefing packet that explains how the CHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities
If an applicant family’s head or spouse is disabled, the CHA will assure effective communication, in accordance with its Reasonable Accommodation Policy. In addition, the CHA will have a process for referring a family that includes a member with mobility or visual/hearing impairments to an appropriate accessible PBV unit.

Persons with Limited English Proficiency
The CHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with its Limited English Proficiency Policy.
17-VI.F. Owner Selection of Tenants
The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant’s ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection and provide a copy to the CHA within ten (10) calendar days of the rejection.

Leasing
During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the CHA from the CHA’s waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the CHA’s subsidy standards.

A family that holds a current voucher from the CHA may lease a unit in a property receiving PBV assistance. However, families wishing to move into a PBV property must relinquish their voucher to the CHA.

Filling Vacancies
The owner must notify the CHA in writing (mail, fax, or e-mail) within 10 calendar days of learning about any vacancy or expected vacancy.

The CHA will make every reasonable effort to refer families to the owner within 15 calendar days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies
If any contract units have been vacant for 120 days, the CHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The CHA will provide the notice to the owner within 10 calendar days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the CHA’s notice.

17-VI.G. Tenant Screening

CHA Responsibility
The CHA is not responsible or liable to the owner or any other person for the family’s behavior or suitability for tenancy.

The CHA will not conduct screening to determine a PBV applicant family’s suitability for tenancy for the owner.

The CHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The CHA will not provide any additional information to the owner, such as tenancy or criminal histories.

Owner Responsibility
The owner is responsible for screening and selection of the family to occupy the owner’s unit. When screening families the owner may consider a family’s background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

Part VII: Occupancy

17-VII.A. Overview
After an applicant has been selected from the waiting list, determined eligible by the CHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

Under its MTW authorizations, the CHA may choose to approve qualified owners/property managers to conduct initial eligibility determination of income and family composition, regular reexaminations of family income and composition, and interim reexaminations. The CHA may also approve qualified property managers to calculate the family share and subsidy amount. In such instances the CHA will conduct a quality control review of the property manager’s determinations of eligibility and reexaminations of income and family composition to assure that they are performed in accordance with the applicable provisions of the administrative plan in Chapters 3, 6, 7, and 11.

17-VII.B. Lease
The tenant must have legal capacity to enter a lease under State of Illinois and City of Chicago law. Legal capacity means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease
The tenant and the owner must enter into a written lease that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease.

The CHA will not review the owner’s lease for compliance with Chicago laws.

Lease Requirements
The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.
Tenancy Addendum
The owner will be required to enter into a tenancy addendum to the lease as provided by the CHA which shall include:

- The program tenancy requirements;
- The composition of the household as approved by the CHA (the names of family members and any CHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal
The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause,” or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the CHA will issue a tenant-based voucher to the family and remove the unit from the PBV HAP contract.

Changes in the Lease
If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the CHA a copy of all changes.

Owner Termination of Tenancy
With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Non-Compliance with Supportive Services Requirement
If a family is living in a property-based unit in supportive housing, and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

Tenant Absence from the Unit
The CHA may terminate its housing assistance for a contract unit if a family is absent from the unit for more than 90 consecutive days.

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by the CHA policy.

Security Deposits
The CHA prohibits the owner from collecting security deposits from assisted families in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.
The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The CHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. Moves

Overcrowded, Under-Occupied, and Accessible Units

The CHA will notify the family and the owner of the family’s need to move based on the occupancy of a wrong-size or accessible unit within ten (10) calendar days of the CHA’s determination. The CHA will offer the family the following types of continued assistance in the following order, based on the availability of units:

1. PBV assistance in the same building or property
2. PBV assistance in another property
3. Tenant-based voucher assistance.

If the CHA offers the family a tenant-based voucher, the CHA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family’s voucher (including any extension granted by the CHA).

If the CHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the CHA, or both, the CHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the CHA.

When the CHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given ten (10) days from the date of the offer to accept the offer and 30 days to move out of the PBV unit. If the family does not move out by the expiration of this 30-day period, the CHA will terminate the housing assistance payments on the 31st day.

The CHA may make exceptions to this 30-day period if needed for reasons beyond the family’s control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move (Transfer to Tenant-Based Program)

The family may terminate the lease at any time after two years of occupancy provided that the family has not violated any of its family obligations. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the CHA. If the family wishes to move with continued tenant-based assistance, the family must contact the CHA to request the rental assistance prior to providing notice to terminate the lease.
In the case of families living in supportive housing under the property-based voucher assistance, the family may terminate the lease at any time of occupancy provided that the family has not violated any of its family obligations and provided that the family no longer requires supportive housing. In such instances, the social service provider and the property manager make the determination that the supportive housing is no longer required. In order to be placed on the CHA’s the tenant-based HCV transfer list, a letter of mutual consent must be provided to CHA that is signed by the social service provider, the property manager and the family.

If the family terminates the lease in accordance with these requirements, the CHA will offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance, if it is available. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family’s lease in the PBV unit, the CHA will place the family’s name on the tenant-based HCV transfer list as specified in Chapter 4 and the CHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of two years or in the case of a family that has not completed the supportive services requirements the family relinquishes the opportunity for continued tenant-based assistance.

If the family is living in a Single Room Occupancy (SRO) unit, the family will be offered tenant based assistance for an efficiency or a one-bedroom unit. For persons receiving PBV assistance in a Single Room Occupancy (SRO) unit who either are occupying the wrong size unit with other family members who were not considered when assistance was first given, or who request to be transferred to a larger unit to accommodate additional family members, the CHA will not grant a transfer to a larger unit, unless the CHA investigation reveals unforeseen circumstances after the initial SRO occupancy qualify the family for a transfer to a larger unit.

17-VII.D. Exceptions to the Occupancy Cap

Under its MTW Agreement, the CHA is exempt from the occupancy cap.

17-VII.E. Participation in Special Programs by PBV Residents

Participants residing in property-based units are eligible for participation in the FSS and Homeownership Programs. However, property-based units are not eligible for purchase with Homeownership Program assistance.

Part VIII: Determining Rent to Owner

17-VIII.A. Overview
The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for substantially rehabilitated or newly constructed housing, the AHAP states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is re-determined at the owner’s request, but no more than once per year, and at such time that there is a five percent or greater decrease in the published FMR.
17-VIII.B. Rent Limits

The rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the CHA, not to exceed 110 percent of the fair market rent (or the CHA’s 300% fair market rent exception authority) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Such rent limits also apply to tax credit units, where the unassisted market rent is used for comparability purposes.

Rents at Initial Occupancy

This activity is subject to HUD’s final Authorization. To assure the financial integrity of the PBV property at the time of initial occupancy, the CHA may provide income to the owner during the initial lease up stage. The CHA may make a payment of 50 percent of the contract rent for two months for any units that are not occupied. In some instance, an additional payment of 100 percent of the contract rent may be made for one month for unoccupied units. Under no circumstances will the CHA make such pre-occupancy payments for a total of more than 90 days for any unit in the property.

Supportive Housing

This activity is subject to HUD’s final Authorization. The CHA under its MTW Program may approve rents that include the costs of supportive services provided.

Where services are provided, the owner must separately state the rent to owner and the rent attributable to the supportive services provided by the owner.

In cases where supportive services are essential to the development’s success, the CHA may include the costs of the supportive services in the rent to owner amounts when the owner has exhausted all other options for obtaining funding.

Use of FMRs, Exception Payment Standards, and Utility Allowances

When determining the initial rent to owner, the CHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the CHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the CHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the property-based voucher program. HUD will not approve a different exception payment standard amount for use in the PBV program.

The CHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and property-based voucher programs.
Redetermination of Rent

Rent Increase

An owner’s request for a rent increase must be submitted to the CHA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing. The request must be in writing and in the form and manner required by the CHA.

The CHA under its MTW Program may also grant owners an annual rent increases based on a formula. The CHA may use this option in cases where it ensures long-term affordability, for example, it assists the owner in obtaining financing or reduced interest rates. In such cases, the CHA will write this into the AHAP, and will apply the Table 1 Contract Rent annual adjustment factors (AAFs) published by HUD in the Federal Register. The CHA has the option to impose the reasonable rent as the cap on the resulting rent determined by applying the AAF taking into consideration factors such as supportive services and special design features.

The CHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner will be decreased unless the HAP contract includes a cost escalation clause or the CHA documents that the long-term viability of the development is jeopardized. In any event, the CHA will not decrease the contract rent below the initial contract rent stated in the HAP Contract.

Notice of Rent Change

The CHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

CHA-Owned Units

For CHA-Owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for CHA-Owned units to the CHA and to the HUD field office where the property is located.

17-VIII.C. Reasonable Rent

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the CHA.

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the CHA will consider factors that affect market rent such as the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.
For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include unassisted units in the premises or property that is receiving property-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and will be retained by the CHA. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

The CHA will not limit comparable properties to those that exist in the same general neighborhood as the PBV development because of the lack of comparable properties in those neighborhoods. Instead, the CHA will select comparable properties city-wide taking into consideration the condition of the properties relative to the PBV property as well as the amenities, services, and other factors related to the comparable properties.

In the case of PBV properties in which the owner provides supportive services, the CHA will determine comparability on the rent to owner excluding supportive services.

**Owner Certification of Reasonable Rent**

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the CHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

**17-VIII.D. Effect of Other Subsidy and Rent Control**

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit.

**Other Subsidy**

For units in any of the following types of federally subsidized properties, the rent to owner may not exceed the subsidized rent (basic rent) as approved by HUD:

- An insured or non-insured Section 236 property;
- A formerly insured or non-insured Section 236 property that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) property;
- Any other type of federally subsidized property specified by HUD.

**Combining Subsidy**

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

**Rent Control**

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under City of Chicago, State of Illinois, or federal law.
Part IX: Payments to Owner

17-IX.A. Housing Assistance Payments
During the term of the HAP contract, the CHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments will be made for each month that a contract unit complies with HQS, is leased to and occupied by an eligible family, and the owner complies with all provisions of the HAP contract. The housing assistance payment will be paid on or about the first day of the month for which payment is due.

Except for discretionary vacancy payments, the CHA will not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the CHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

17-IX.B. Vacancy
If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the CHA determines that the vacancy is the owner's fault.

If the CHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the CHA will notify the owner/property manager of the amount of housing assistance payment that the owner must repay. The CHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

The CHA will only make vacancy payments if the vacancy payment provision has been selected in the HAP contract, and the owner:

- Gives the CHA written notice in the manner and form prescribed by the CHA, within ten (10) calendar days of the family vacating the unit. Such written notice will include the owner’s certification that the family has vacated and the date when the family moved out (to the best of the owner’s knowledge);
- Certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- Provides documentation as required by the CHA substantiating that the owner has taken every reasonable action to minimize the likelihood and length of vacancy; and
- Provides any additional information required and requested by the CHA to verify that the owner is entitled to the vacancy payment.

If the owner does not provide the information requested by the CHA within ten (10) calendar days of the family’s vacating the unit, no vacancy payments will be made.

17-IX.C. Tenant Rent to Owner

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the CHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the CHA notice to the family and owner.
The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the CHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the CHA. The owner must immediately return any excess payment to the tenant.

**Tenant and CHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the CHA.

Likewise, the CHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The CHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The CHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

**Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the CHA will pay the amount of such excess to the family as a reimbursement for tenant-paid utilities, and the tenant rent to the owner will be zero.

**17-IX.D. Other Fees and Charges**

**Meals and Supportive Services**

With the exception of PBVs in assisted living developments, the owner must not require the family to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

**Other Charges by Owner**

The owner must not charge extra amounts for items customarily included in rent in Chicago or provided at no additional cost to unsubsidized tenants in the premises.

**17-IX.E. CHA Monitoring of PBV Properties**

To determine compliance with the property-based HAP contract, the CHA may monitor the HAP payments, management, tenant screening, occupancy, inspections, equipment, and supportive services. For supportive services, the CHA may monitor the types of services provided, tenant participation in the services, and may terminate families from the program for failure to meet support services requirements.

**17-X.A. Introduction**

HUD approved the Regional Housing Initiative (RHI) in 2002. Under RHI, the Illinois Housing Development Authority (IHDA) and the Metropolitan Planning Council (MPC) form a partnership with seven local housing authorities (Chicago, Cook County, Evanston, Joliet, Lake County, McHenry County, and Waukegan).

RHI provides financial incentives (via operating subsidies) to developers and owners of quality rental housing to address the geographic mismatch between the growth in jobs and availability of affordable housing in the Chicago metropolitan region. Participating Housing Authorities commit a percentage of property-based voucher units to the RHI pool.
17-X.B Chicago RHI Commitment
The CHA has committed 219 vouchers for property-based assistance under the RHI.

Proposal Selection
RHI issues an annual Request for Proposals (RFP) to developers for the property-based vouchers. The proposals are reviewed by a selection committee comprised of the participating entities.

The Lead Housing Authority is designated based on the jurisdiction in which the proposed development is located.

Tenant Selection
When a development begins its leasing process, each housing authority may refer up to three applicants from their property-based voucher waiting list per available unit. The Lead Housing Authority then sends all the referrals to the owner/developer.

The owner/developer creates a waiting list by lottery with preference given to families that live or work within twelve (12) miles of the development. The owner/developer provides the Waiting List to the Lead Housing Authority for validation.

Based on the development’s RHI-approved Tenant Selection Plan, the owner/developer accepts applications and screens the families in Waiting List order. If the families meet the screening criteria, then they are referred back to the Lead Housing Authority to complete the eligibility process using Lead Housing Authority’s policies and procedures.

The Lead Housing Authority is responsible for administering the vouchers from other participating housing authorities under a Management and Operating Agreement.
## GLOSSARY

### Acronyms Used in Subsidized Housing

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AAF</td>
<td>Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)</td>
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<td>ACC</td>
<td>Annual contributions contract</td>
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<td>ADA</td>
<td>Americans with Disabilities Act of 1990</td>
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<tr>
<td>BR</td>
<td>Bedroom</td>
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<tr>
<td>CDBG</td>
<td>Community Development Block Grant (Program)</td>
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<tr>
<td>CFR</td>
<td>Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)</td>
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<td>CPI</td>
<td>Consumer price index (published monthly by the Department of Labor as an inflation indicator)</td>
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<td>FDIC</td>
<td>Federal Deposit Insurance Corporation</td>
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<td>FHA</td>
<td>Federal Housing Administration</td>
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<tr>
<td>FICA</td>
<td>Federal Insurance Contributions Act (established Social Security taxes)</td>
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<td>FMR</td>
<td>Fair market rent</td>
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<tr>
<td>FR</td>
<td>Federal Register</td>
</tr>
<tr>
<td>FSS</td>
<td>Family Self-Sufficiency (Program)</td>
</tr>
<tr>
<td>FY</td>
<td>Fiscal year</td>
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<td>FYE</td>
<td>Fiscal year end</td>
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<tr>
<td>GAO</td>
<td>Government Accountability Office</td>
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<tr>
<td>GR</td>
<td>Gross rent</td>
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<tr>
<td>HAP</td>
<td>Housing assistance payment</td>
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<tr>
<td>HCV</td>
<td>Housing choice voucher</td>
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<tr>
<td>HQS</td>
<td>Housing quality standards.</td>
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<tr>
<td>HUD</td>
<td>Department of Housing and Urban Development</td>
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<tr>
<td>HUDCLIPS</td>
<td>HUD Client Information and Policy System</td>
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<tr>
<td>IG</td>
<td>(HUD Office of) Inspector General</td>
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<tr>
<td>IPA</td>
<td>Independent public accountant</td>
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<tr>
<td>IRA</td>
<td>Individual Retirement Account</td>
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<td>IRS</td>
<td>Internal Revenue Service</td>
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<tr>
<td>JTPA</td>
<td>Job Training Partnership Act</td>
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<tr>
<td>LBP</td>
<td>Lead-based paint</td>
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<tr>
<td>MSA</td>
<td>Metropolitan statistical area (established by the U.S. Census Bureau)</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>MTCS</td>
<td>Multi-family Tenant Characteristics System (now the Form HUD-50058 sub module of the PIC system)</td>
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<tr>
<td>MTW</td>
<td>Move to Work Demonstration</td>
</tr>
<tr>
<td>NOFA</td>
<td>Notice of funding availability</td>
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<tr>
<td>OMB</td>
<td>Office of Management and Budget</td>
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<tr>
<td>PASS</td>
<td>Plan for Achieving Self-Support</td>
</tr>
<tr>
<td>PHA</td>
<td>Public housing agency</td>
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<tr>
<td>PHRA</td>
<td>Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)</td>
</tr>
<tr>
<td>PIC</td>
<td>PIH Information Center</td>
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<td>PIH</td>
<td>(HUD Office of) Public and Indian Housing</td>
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<td>PS</td>
<td>Payment standard</td>
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<td>QC</td>
<td>Quality control</td>
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<td>QHWRA</td>
<td>Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)</td>
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<td>REAC</td>
<td>(HUD) Real Estate Assessment Center</td>
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<td>RFP</td>
<td>Request for proposals</td>
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<tr>
<td>RFTA</td>
<td>Request for tenancy approval</td>
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<tr>
<td>RIGI</td>
<td>Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)</td>
</tr>
<tr>
<td>SEMAP</td>
<td>Section 8 Management Assessment Program</td>
</tr>
<tr>
<td>SRO</td>
<td>Single room occupancy</td>
</tr>
<tr>
<td>SSA</td>
<td>Social Security Administration</td>
</tr>
<tr>
<td>SSI</td>
<td>Supplemental security income</td>
</tr>
<tr>
<td>TANF</td>
<td>Temporary assistance for needy families</td>
</tr>
<tr>
<td>TR</td>
<td>Tenant rent</td>
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<tr>
<td>TTP</td>
<td>Total tenant payment</td>
</tr>
<tr>
<td>UA</td>
<td>Utility allowance</td>
</tr>
<tr>
<td>URP</td>
<td>Utility reimbursement payment</td>
</tr>
<tr>
<td>VAWA</td>
<td>Violence Against Women Reauthorization Act of 2005</td>
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</table>
Glossary of Subsidized Housing Terms

**Abatement of HAP Contract.** Abatement is the process used by the PHA for withholding housing assistance payments from an owner. Abatement is used to enforce the PHA rights and remedies against an owner under the HAP contract, such as the recovery of overpayments by the PHA to the owner, or other recovery of housing assistance payments for the period that a dwelling unit and premises are not maintained in accordance with the housing quality standards (HQS) for the program. A PHA does not reimburse an owner for housing assistance payments that were abated for the period that the unit did not meet HQS.

**Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Abusive or violent behavior.** Includes verbal as well as physical abuse or violence. Use of racial epithets, or other language written or oral, that is customarily used to intimidate.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

**Adjusted Income.** Annual income, less allowable HUD deductions.

**Adjusted Annual Income.** Same as Adjusted Income.

**Administrative fee.** Fee paid by HUD to the PHA for administration of the program. See §982.152.

**Administrative fee reserve** (formerly “operating reserve”). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

**Administrative plan.** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and included as a supporting document to the PHA Plan. See §982.54.

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

**Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual contributions contract (ACC).** The ACC is a written contract between HUD and a PHA. Under the ACC, HUD agrees to make payments to the PHA, over a specified term, for housing assistance to owners and for the PHA administrative fee under Section 8 of the 1937 Act. The ACC specifies the maximum payment over the ACC term. Under the ACC, the PHA agrees to administer the program in accordance with HUD regulations and requirements.

HUD’s commitments to make payments for each funding increment in the PHA program constitutes a separate ACC. However commitments for all the funding increments in a PHA program are listed in one consolidated contractual document called the consolidated annual contributions contract. A single consolidated ACC covers funding for all the voucher funding increments in the PHA program.
Annual Income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area Exception Rent. An amount that exceeds the published FMR. See §982.504(b).

“As-paid” States. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See Net Family Assets.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

Budget authority. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child (or Youth). A member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. A citizen or national of the United States.

Civil Union. A legal union sanctioned by a civil authority.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract. (See Housing Assistance Payments Contract.)
**Contract authority.** The maximum annual payment by HUD to a PHA for a funding increment.

**Cooperative** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, co-head, or live in aide who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family.** A family whose head, spouse, co-head, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person.** See Person with Disabilities.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Domestic partners.** Individuals are responsible for each other’s sole domestic partner and for each other’s common welfare. Individuals must be at least eighteen (18) years of age and intend to live in the same residence as the primary residence. Individuals cannot be legally married to another person. Individuals cannot be related by blood closer than would bar marriage in the State of Illinois. In addition, a City, County, State Agency or other unit of government must recognize them as domestic partners. If not, the following two (2) conditions must exist: A) the domestic partner identifies the partner as a primary beneficiary in their will. B) The domestic partners have at least two (2) joint financial arrangements such as:

- (i) Joint ownership of a motor vehicle.
- (ii) A joint credit account.
- (iii) A joint checking account.
- (iv) A lease for a residence identifying both domestic partners as tenants.
**Domestic violence.** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

**Domicile.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Drug-related criminal activity.** As defined in 42 U.S.C. 1437f(f)(5).

**Drug-trafficking.** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Economic Self-Sufficiency Program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

**Elderly family.** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly Person.** An individual who is at least 62 years of age.

**Eligible Family (Family).** A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

**Employer Identification Number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property or a correctional, penal, detention or mental health institution.


**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.
**Family.** Includes but is not limited to the following, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program** (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the Federal Government.

**Foster Child Care Payment.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**Full-time Student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (CFR 5.603)

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

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

**Group home.** A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

**Handicap Assistance Expense.** See “Disability Assistance Expense.”

**HAP contract.** Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Homeless, Homeless Individual, Homeless Person.** A person or individual who (1) lacks a fixed, regular, and adequate night time residence; and (2) has a primary night time residence that is (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (b) an institution that provides a temporary residence for individuals intended to be institutionalized; or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
**Housing assistance payment (HAP).** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family’s lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing agency (HA).** A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“PHA” and “HA” mean the same thing.)

**Housing Quality Standards.** The HUD minimum quality standards a unit must meet to be housing assisted under the voucher program.

**HUD.** The Department of Housing and Urban Development.

**Immediate family member.** A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

**Imputed Asset.** Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

**Imputed Income.** HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed $5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family’s annual income and therefore reflected in the family’s rental contribution.

**Income.** Monetary payments received by each member of the household from various sources, as determined in accordance with criteria established by HUD.

**Income For Eligibility.** Annual Income.

**Income information** means information or data relating to an individual’s income, including but not limited to:
- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State’s unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with a handicap.** Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

**Initial PHA.** In portability, the term refers to: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; (2) A PHA that was administering assistance for a family and the family later decides to move out of the jurisdiction of the administering PHA; and (3) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.
Jurisdiction. The area in which the PHA has authority under State and local law to administer the program.

Owner/property manager. The agent assigned to manage the unit or property. This may be either the owner of the property or the owner's representative or managing agent or the management agent's representative, as designated by the owner.

Lease. A written agreement between an owner or an owner's agent and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:
- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local Preference. A preference or criteria used by the PHA to select among applicant families to be assisted first.

Low Income Family. A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

Medical expenses. The amount of unreimbursed monetary payments made by the household for medical or dental related costs. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of the family's monthly income after allowances and deductions have been subtracted from the gross annual income.

Monthly Gross income. One twelfth of a family's total annual income.

Move to Work. MTW is a demonstration program authorized by law that allows public housing agencies such as the CHA to design and test ways to (i) promote self-sufficiency among assisted families; (ii) achieve programmatic efficiency and reduce costs; and (iii) increase housing choice for low-income households.

Move to Work Demonstration Agreement. This Agreement signed by CHA and HUD is a statement of the authority granted to CHA to waive selected statutory and regulatory requirements to allow CHA flexibility in achieving the stated objectives of the Move to Work Demonstration.

Mutual housing. Included in the definition of “cooperative.”

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.
Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

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

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

- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Notifications. Written correspondence related to the HCV program received by applicants, participants and/or owners/property managers. Oral or other forms of communication are not considered notification to the CHA.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA’s quality control sample. An annual sample of files or records for families assisted by the PHA that drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the PHA program and is currently receiving assistance in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. An amount established by the PHA that represents the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family). Payment standards are based on the HUD published established Fair Market Rents (FMR) for the voucher program.
**Persons With Disabilities.** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and “individual with handicaps” as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See “Individual with handicaps”.

**Portability.** Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Private space.** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the “processing entity” is the “responsible entity.”

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public Assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**Public Housing Agency (PHA).** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Regular Reexamination.** In the case of participating families, regular reexamination means the biennial reexamination of household composition and income. In the case of elderly households and households where the head of household or spouse has a disability, regular reexamination means the triennial reexamination of household composition and income.

**Remaining Member of Tenant Family.** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

**Residency Preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (“residency preference area”).

**Residency Preference Area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, property-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the
program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used by the owner or the owner’s agent for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

Social Security Number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified Welfare Benefit Reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.
**Subsidy standards.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Supportive Housing.** Supportive housing is affordable housing blended with on-site supportive services, including case management, that help people live more stable, productive lives. Supportive housing benefits individuals and families facing complex challenges, including those who are homeless or at risk of becoming homeless, and those facing serious, persistent challenges to a successful life such as alcohol abuse, substance use, mental illness, HIV/AIDS. Populations served may also include persons with developmental disabilities or the frail elderly.

**Tenancy Addendum.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See “Family rent to owner”.

**Term of Lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total Tenant Payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utility allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility Reimbursement Payment (URP).** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**Utility hook-up charge.** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Vacancy Loss Payments.** *(Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program).* When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

**Very Low Income Family.** A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (Housing Choice Voucher).** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

**Voucher holder.** A family holding a voucher with an unexpired term (search time).

**Voucher program.** The housing choice voucher program.
Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

Welfare-to-work (WTW) family. A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).