

# Foley Housing Authority

## Housing Choice Voucher Program (Section 8)



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## **I. Introduction:**

### **A. Mission Statement:**

Our goal is to provide decent, safe, and sanitary rental housing for eligible families and to provide opportunities and promote self-sufficiency and economic independence for HCV (HCV) participants. In order to achieve this mission, we will:

Recognize participants as our ultimate customer.

Improve Housing Authority (HA) management and service delivery efforts through effective and efficient management of HA staff.

Seek problem-solving partnerships with participants, landlords, community, and government leadership.

Apply limited HA resources to the effective and efficient management and operation of HCV programs.

### **B. Purpose of Plan:**

The purpose of this plan is to establish guidelines for the HA staff to follow in determining eligibility for the HCV programs. The basic guidelines for this plan are governed by requirements of The Department of Housing and Urban Development (HUD), with latitude for local policies and procedures. The Policies and Procedures governing admissions and continued occupancy are outlined in this plan and these requirements are binding upon applicants, participants, landlords and this HA alike. Notwithstanding the above, changes in applicable federal law or regulations shall supersede provisions in conflict with this plan. **Federal Regulations shall mean those found in Section 24 CFR (Code of Federal Regulations)**

### **C. Primary Responsibilities of the HA:**

(a) Informing eligible families of the availability of HCV assistance;  
Encouraging owners to make their units available for lease by HCV participants;  
Determining the maximum amount of housing assistance payments that can be used for family-paid utilities; and posting the utility allowances annually;  
Receiving applications from families and determining their eligibility for assistance;  
Inspecting HCV units to determine that they meet or exceed HCV, Housing Quality Standards;  
Approving leases;  
Making Housing Assistance Payments to owners;  
Perform annual and periodic re-examinations of income, family composition, and redetermination of rent.

### **D. Objectives:**

(a) Promote the overall goal of decent, safe and sanitary housing by using the HCV program to house eligible families in private rental housing; therefore, increasing the housing stock for very low-income families.  
Improve the City's housing stock by requiring participating landlords to meet Housing Quality Standards for their rental property.

Facilitate the efficient management of the HA and compliance with Federal Regulations by establishing policies for the efficient and effective management of the HCV program and staff.

Comply in letter and spirit with Title VI of the Civil Rights Act of 1964, and all other applicable Federal laws and regulations to insure that occupancy in assisted housing is administered without regard to race, color, religion, sex, handicap, familial status, and national origin.

The Housing and Community Development Act of 1974 reflects Congress's intent that, where possible, the nation's existing housing stock should be preserved. The HCV Program will allow the HA to utilize existing housing stock and allow a family who qualifies for HCV Assistance and lives in substandard housing to remain, if the owner brings the house up to HQS standards and the HCV participant decides to remain in that unit.

E. Outreach:

1. Outreach to Owners:

The HA will encourage participation by owners of suitable units located outside areas of low income or minority concentration by distributing and communicating information concerning property owners leasing units under the HCV programs through the local media (newspaper, radio, television, etc.).

2. Outreach to Potential Clients:

The HA may make known to the public, through publications in a newspaper of general circulation as well as through minority media and other suitable means, the availability and nature of housing assistance for lower-income families. The notice shall inform such families where they may apply for HCV rental assistance. The HA shall take affirmative actions to provide opportunities to participate in the program to persons who, because of such factors as race, disability, ethnicity, sex of household head, age, or source of income, are less likely to apply for HCV rental assistance. The HA may hold meetings concerning the HCV programs with local social community agencies.

## **II. Fair Housing Plan and Equal Opportunity Housing Plan**

A. Fair Housing Plan:

The Fair Housing Plan of the HA is to comply fully with all Federal, State, and local nondiscrimination laws and in accordance with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment and with the Americans with Disabilities Act.

Specifically, the HA shall not on the basis of race, color, religion, sex, handicap, familial status, and national origin, deny any family or individual the opportunity to apply for or receive assistance under HUD's HCV Programs, within the requirements and regulations of HUD and other regulatory authorities. To further its commitment to full compliance with applicable Civil Rights laws, the HA will provide access to information to HCV participants regarding "discrimination." Also, this subject will be discussed during the briefing session and any complaints will be documented and made part of the applicant's/participant's file.

For families and/or individuals who report apparent discrimination in obtaining assisted housing, the HA shall assist them by providing the family/individual with a HUD Housing

Discrimination Complaint Form, HUD - 903. The individual can complete this form and report apparent discrimination to the Birmingham HUD Office of Fair Housing and Equal Opportunity. For example, a participant may be trying to obtain other rental housing and/or is attempting to purchase a home and experiences apparent discrimination.

**B. Equal Opportunity Housing Plan:**

The HA is a participant in the tenant-based program and is required to comply with equal opportunity requirements imposed by contract or federal law (Ref: 24 CFR 982.54). This includes applicable requirements under:

- (a) The fair housing act, 42 U. S. C. 3610-3619 (implementing regulations at 24 CFR parts 100, et seq.);

Title VI of the Civil Rights Act of 1964, 42 U. S. C. 2000d (implementing regulations at 24 CFR part 1);

The age discrimination act of 1975, 42 U. S. C. 6101-6107 (implementing regulations at 24 CFR, part 146);

Executive Order 11063, Equal Opportunity in Housing (1962), as amended, Executive Order 12259, 46 FR1253 (1980), as amended, Executive Order 12892, 59FR 2939 (1994) (implementing regulations at 24 CFR, part 107);

Section 504 of the Rehabilitation Act of 1973, 29 U. S. C. 794 (implementing regulations at 24 CFR, part 8; and

Title II of the Americans with Disabilities Act, 42 U. S. C. 12101, et seq.

**C. Equal Access Rule:**

The HA's programs are open to all eligible individuals regardless of sexual orientation, gender identity or marital status. "Sexual orientation" means homosexuality, heterosexuality or bisexuality. "Gender identity" means actual or perceived gender-related characteristics. The term "family" includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person or any other single person; or
- (2) A group of persons residing together and such group includes, but is not limited to:
  - a. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - b. An elderly family;
  - c. A near-elderly family;
  - d. A disabled family;
  - e. A displaced family; and
  - f. The remaining member of a tenant family.

**D. Equal Opportunity Posting Requirements:**

There shall be maintained in the HA's office waiting room a bulletin board, which will accommodate the following posted materials:

- (a) Statement of Policies and Procedures Governing the HCV Administrative Plan.  
Open Occupancy Notice (Applications being Accepted and/or Not Accepted)

Income Limits for Admission.  
Utility Allowances.  
Informal Review and Hearing Procedure.  
Fair Housing Poster.  
"Equal Opportunity in Employment" Poster.

#### E. Family Information, Verification and Privacy Rights

- (a) The family must supply any information that the HA or HUD determines is necessary in the administration of the public housing program. "Information" includes any requested certification, release or other documentation.

The family must supply any information requested by the HA or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income, community service requirements and family composition in accordance with HUD requirements.

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

The use or disclosure of information obtained from a family or from another source pursuant to this release and consent shall be limited to purposes directly connected with the administration of the program.

Applicants will be required to sign the Federal Privacy Act Statement, which states under what conditions HUD will release resident information.

Requests for information by other parties must be accompanied by a signed release request in order for the HA to release any information involving an applicant or participant, unless disclosure is authorized under Federal or State law or regulations.

### III. Applying For Assistance

#### A. How to Apply:

- (a) Families wishing to apply for housing assistance shall complete a pre-application for waiting list placement. Families are entitled to a reasonable accommodation in the application process.
- (b) Applications **may** be accepted at the following location: 302 W. Fourth Avenue, Foley, AL 36535. Foley Housing Authority (FHA) **may** accept applications online at: [www.foleyha.org](http://www.foleyha.org). Location specifics and/or methods of accepting applications will be noted in the advertisement(s).
- (c) Applications are taken to compile a waiting list. Based on the demand for housing in the HA's jurisdiction, the HA may take applications on an "as needed" basis, depending on the length of the waiting list and available funding.
- (d) Completed applications will be accepted for all applicants and the information will be verified by the HA.
- (e) Applications **may** be made in person at the HA during specified dates and business hours posted at the HA's Office. As FHA continues to streamline the application procedures and strives to be time effective, applications may be made utilizing electronic avenues. The applicable method will be specifically stated in the advertisement.
- (f) The application must be dated, time-stamped, and referred to the HA's office where HCV applications are processed.

- (g) Individuals who have a physical impairment which would prevent them from completing an application in person may call the HA to make special arrangements to complete their application.

**B. Opening and Closing Waiting Lists:**

- (a) If the HA's waiting list has sufficient applications to fill anticipated openings for the coming 12 months, the HA may elect to:
  - a. Close the waiting list completely;
  - b. Close the list during certain times of the year; or
  - c. Restrict intake by preference.

A decision to close the waiting list will consider the number of applications, the number of applicants who qualify for a preference (if applicable), and the ability of the HA to provide assistance in 12 months. Decisions to close waiting lists, restrict intake, or open waiting lists will be publicly announced.

When the waiting list is closed, the HA will not maintain a list of individuals who wish to be notified when the waiting list is re-opened.

**IV. Missed Appointments for Applicant or Participant**

**A. Missed Appointment Without Notification:**

An applicant or person receiving assistance who fails to keep an appointment without notifying the HA and without re-scheduling the appointment shall be sent a notice of termination of the process or assistance for failure to supply such certification, release of information or documentation as the HA or HUD determines to be necessary (or failure to allow the HA to inspect the dwelling unit at reasonable times and after reasonable notice, if applicable) in the following situations:

- (a) Complete Application

Bringing in Verification Information

Program Briefing

Leasing Signature Briefing

HQS Inspections

Recertification

Interim Adjustment

Other Appointments or Requirements to Bring in Documentation as Listed in this Plan

Scheduled Counseling Sessions

**B. Process when Appointment(s) are missed:**

Typically, FHA does not re-schedule an interview more than once, but may at the discretion of the HA do so for extenuating circumstances. Failure of the applicant family to timely notify the HA (i.e.; within a minimum of twenty-four (24) hours, and in cases of substantial emergency where the minimum notification time is not less than three (3) hours) of its inability to make the scheduled interview, may result in the removal of the family from the waiting list and the HA may begin the termination or denial process. The applicant or participant will be given an opportunity for an informal review or hearing pursuant to Section XXXIX and Section XL.

If the representative of the HA makes a determination in favor of the applicant or participant, the HA will comply with decision unless the HA is not bound by a hearing decision concerning a matter for which the HA is not required to provide an opportunity for a hearing pursuant to 24 CFR 982.

C. Letters Mailed to Applicants/Participants by the HA:

When a family has been selected from the waiting list, FHA will notify the family at the address or telephone number provided by the family on their pre-application or on the change of information document if a change has been submitted. **When mailing notice(s)/letter(s) to applicants and/or participants for such purposes that failure for the family to act, respond, reply as indicated in such letter could place the family's subsidy or participation on the program in jeopardy, the FHA will use the certified/return receipt requested mailing method. The U.S. Post Office makes two (2) delivery attempts when utilizing this method. Therefore, the notification letter will only be mailed one (1) time. The HA will track the certified mail and keep a copy of the tracking documentation in the applicant/participant file. The HA will maintain the receipt returned for proof of mailing purposes.**

If the letter was returned to the HA and the applicant/participant can provide evidence that they were living at the address to which the letter was mailed, the applicant/participant may be reinstated with the date and time of the application in effect at the time the letter was mailed.

If the letter is returned to FHA with no forwarding address, the family will be removed from the waiting list. A notice of denial will be mailed to the family's address of record as well as to any known alternate address. If the notification letter is returned indicating a forwarding address FHA will send the notification to the address indicated on the letter from the Post Office.

Applicants must notify the HA, in writing within ten (10) days of occurrence, if their mailing address changes during the application process or while in pending status.

D. Mail receptacles available by Participants:

**V. When the HA mails notices, letters, and any other correspondence to the participant, the HA will mail it to the physical address of the unit for which the subsidy is paid. Therefore, the unit must have a properly installed and operational mail receptacle at all times. Misrepresentation by the Applicant or Participant**

If an applicant or HCV participant is found to have made willful misrepresentations at any time which resulted in the applicant or HCV participant being classified as eligible, when, in fact, they were ineligible, applicant will be declared ineligible and the HCV participant will be terminated because of the act of fraud and/or willful misrepresentation by the applicant/HCV participant. If such misrepresentation resulted in the HCV participant receiving more subsidy than was appropriate, the HCV participant shall be required to reimburse the HA the amount of overpayment and their assistance may be terminated. In justifiable instances, the HA may take such other actions as it deems appropriate, including referring the HCV participant to the proper authorities for possible criminal prosecution.

**VI. Housing Choice Voucher Eligibility Criteria**

A. Eligibility:

All individuals who are admitted to the HCV Program in the HA must be individually determined eligible under the terms of this plan. In order to be determined eligible, an applicant must meet the following requirements:

- (a) The applicant family must qualify as a family as defined in Appendix "A."



The applicant family's Annual Income as defined in Appendix "A" must not exceed income limits established by HUD for the HCV Programs.

Head of Household must be:

- a. 19 years of age or older,
- b. 18 years of age and married (not common law), or
- c. A person that has been relieved of the disability of non-age by a juvenile court

**B. Ineligible:**

Applicants are not automatically determined eligible to receive federal assistance. An applicant will not be placed on a waiting list or offered HCV assistance under the following circumstances:

- (a) If the applicant's annual family income exceeds the Income Limits established by HUD; or,
- (b) As specified in Section VIII of this document.

**C. Informed of Ineligibility:**

If the applicant has failed to meet any outstanding requirements for eligibility and is determined ineligible, he/she will be so informed and the reasons stated in writing. The applicant will be granted ten days from the date stated on the ineligible letter to request an informal meeting. The applicant may bring any person he/she wishes to represent them at the informal meeting. The request for an informal meeting may be submitted in writing and/or the request may be verbal. However, the request must be received by the HA within the time frame established by the HA for the meeting. See Section XXXIX.

**D. Single Person:**

In addition, under 24 CFR, the HA is permitted to determine as eligible, single persons living alone or intending to live alone who do not meet any of the definitions of a family. Single persons are only eligible for a one bedroom voucher.

**E. Declaration of Citizenship:**

Section 214 of the Housing and Community Development Act of 1980 prohibits HAs from making financial assistance available to a person other than United States citizens, nationals, or certain categories of eligible Non-citizen in HUD's assisted housing programs.

**F. Adding a Person to the Program:**

Once an applicant becomes a participant in the HA's HCV program, the head of household must request permission to add another person to the program (Except for birth, adoption or court-ordered custody of a child. For the purpose of the paragraph, a child is defined as a person under the age of 13). The person being added must meet all eligibility requirements before the HA will approve any addition to the HCV program.

## **VII. Eligibility for Admission and Processing of Applications**

**A. Qualifying for Admission:**



The term (qualifying) refers to applicants who are eligible and able to meet the applicant selection standards.

(a) It is the HA's plan to admit only qualified applicants.

An applicant is qualified if he or she meets all of the following criteria:

- a. A family, as defined in Appendix "A."
- b. Meets HUD requirements on citizenship or immigration status;
- c. Has an annual income as defined in Appendix "A"; at the time of admission that does not exceed the income limits (maximum incomes by family size established by HUD) posted in the HA offices.
- d. Provides documentation of Social Security numbers for family members.
- e. Non-citizens may certify that they do not have Social Security numbers (lawfully present noncitizens who state that they have not been assigned a SSN by the SSA, should make such declaration in writing and under penalties of perjury to the PHA. The PHA should maintain the declaration in the tenant file); and
- f. If the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years, there is a 90-day period during which an applicant family may become a program participant. An extension of one additional 90-day period must be granted if the PHA determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant.

**NOTE: THE HA MUST DEVELOP A TRACKING SYSTEM TO ENSURE COMPLIANCE.**

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**Form HUD-92006, Supplement to Application for Federally Assisted Housing, shall be completed as appropriate at admission and/or recertification. This form shall remain confidential.**

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- g. Meets the Applicant Selection Criteria including completing the HA-approved pre-occupancy orientation session if requested; and
- h. Meets the eligibility requirement for higher education students.

**B. Maintaining the Waiting List.**

**1. Administration of the Waiting List:**

It is the plan of the HA to administer its waiting list as required by HUD's regulations.

**2. Updating the Waiting List:**

At least once a year the HA will update the waiting list by contacting all applicants in writing, or by the method designated at initial application by applicants with disabilities. Written communications will be mailed to the most current address supplied by the applicant, utilizing the mailing method(s) referenced in section IV (C). This is in addition to ongoing purging through the offering of program assistance. (Offer letter must state that failure to respond will result in removal from the waiting list).

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**If no response is received or if mail is returned undeliverable by the post office (retained unopened by the HA in the applicant file) the HA will make the applicant file inactive and remove the family from the waiting list.**

**At the time of initial intake, the HA will advise families that they must notify the HA in writing within ten (10) days of occurrence, if their circumstances, mailing address or phone number(s) change.**

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3. Change in Preference Status While on the Waiting List:

- a. Situations of some families who did not qualify for a preference when they applied may change so they are qualified for a preference. The family should contact the HA so their status may be certified or verified. Applicants whose preference status changes while they are on the waiting list retain their original date and time of application, or application number, as applicable.
- b. If the HA determines that the family does now qualify for a preference, they will be moved up on the waiting list in accordance with their preference(s) and their date and time of application. They will then be informed in writing of how the change in status has affected their place on the waiting list.

C. Processing Applications for Admission:

1. Interviews:

As applicants approach the top of the waiting list, they will be contacted by mail at the address (or telephone number) provided by the family on their pre-application or on the change of information document if a change has been submitted to schedule an interview to complete their applicant file. The HA will utilize the certified/return receipt mailing method and will retain the tracking documentation in the applicant file. Applicants who fail to attend their scheduled interview or fail to reply to the letter will have their application file made inactive and their name will be removed from the waiting list, subject to reasonable accommodations for people with disabilities.

2. Verification Process:

The following items will be verified to determine qualification for admission to the HA's HCV program.

- a. Family composition
- b. Eligibility of higher education student head of household
- c. Annual Income:

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**Income verification will be conducted in the chronological order listed below: Each step must be documented prior to proceeding to use the next option. The specified order listed below must be followed:**

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Step	Action
1st	Compare tenant provided income information to Enterprise Income Verification (EIV) and if tenant data is within \$200/month or \$2400/year use tenant provided data. If the tenant disputes the EIV data or if the difference is greater than \$200/month or

	<p>\$2400/year go to step 2. <b><u>USE OF EIV FOR ANNUAL AND INTERIM REEXAMINATIONS IS HUD MANDATED</u></b></p> <p><b>NOTE 1:</b> Acceptable tenant provided income information (generated by a third party source) include, but are not limited to: pay stubs [minimum of at least 2 current (within 60 days) and consecutive pay stubs/checks covering a minimum of 4 weeks], 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 (within 60 days) acceptable tenant-provided documents must be used for income and rent determinations.</p> <p><b>NOTE 2:</b> If no match is found or any other EIV response is received print the “no match found” or other message and file with tenant record.</p> <p><b>NOTE 3:</b> Printed EIV income reports containing wage and unemployment data must be destroyed no later than three (3) years after End of Participation (EOP).</p> <p><b>NOTE 4:</b> NEW ADMISSIONS (form HUD-50058 action type 1), the PHA is required to do the following:</p> <p style="padding-left: 40px;">(a) Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and Print and maintain a copy of the EIV Income Report in the tenant file; and Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.</p> <p>EIV is generally available for new move-ins within 7 days of submission of Form HUD-50058</p>
2nd	Up front income verification (UIV) (Ex: Work Number, Credit Bureau). <b><i>If desired information is NOT obtained go to next step.</i></b>
3rd	<p>Third party written verification Includes: (1) 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. (2) A standard income verification sent to the income source(s). May be sent by mail or fax.</p> <p><b>Note: <i>If a desirable response is not received in a timely manner a 2nd letter may be sent but not required in all cases.</i></b></p> <p>If desired information is NOT obtained go to next step.</p>
4rd	Third Party oral verification (documented to file). This could be via phone or interview by staff. A written record of this contact should be prepared by the HA that includes: date/time of contact, name and source of information, the HA staff person, summary of information provided, and the reason for using oral verification. <b><i>If desired</i></b>

	<b><i>information is NOT obtained go to next step.</i></b>
5th	<p>Document Review: Resident file documentation may include a record of documentation reviewed by the HA staff which supports the family's statement. If possible, original copies (not photocopies) of supporting documents should be reviewed, though the HA should photocopy the document(s) (unless prohibited by law) and place in the applicant's file. The HA staff reviewing the document(s) should prepare a summary of the information and sign/date this summary. This summary should include the reason for using document review as verification and again, if possible, the HA should follow-up with a third party to obtain written verification later.</p> <p><b><i>If desired information is NOT obtained go to next step.</i></b></p>
6th	<p>Family Declaration or Certification: When all other forms of verification are impossible to obtain, the HA can obtain a notarized statement or signed affidavit from the family, attesting to the accuracy of the information provided. The applicant's file should clearly document why other forms of verification were impossible to obtain. Please note that this type of documentation should rarely be used and should not be used merely for the convenience of the applicant or the HA, or where the applicant cannot provide the necessary information.</p> <p>Note: Use to verify required information; however, may require reverification in three months.</p>

d. Assets and Asset Income;

The HA must obtain third-party verification of all family assets upon admitting a family (starting with 2<sup>nd</sup> step above) and then again at least every 3 years thereafter. During the intervening annual reexaminations, a PHA will accept a family's declaration that it has total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, then the PHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. The total amount of income expected from all assets must be less than or equal to \$5,000. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of Form HUD-50058.

**NOTE: IF A FAMILY MEMBER WITH ASSETS IS ADDED TO THE LEASE, THIRD PARTY VERIFICATION MUST BE OBTAINED. IF TOTAL FAMILY ASSETS EXCEED \$5,000, ALL ASSETS MUST BE VERIFIED.**

- e. Social Security and SSI; Check EIV, if not available: request that the applicant provide a copy of their SS or SSI benefit letter, dated within the last 60-days. If the applicant does not have a current letter, assist the applicant in requesting the benefit letter from the SSA website. [www.socialsecurity.gov](http://www.socialsecurity.gov)
- f. Deductions from Income;  
Same as income (start with 2nd step)

- g. Preferences;  
Same as income (start with 2nd step)
- h. Social Security Numbers (SSN) of all Family Members; Families are required to provide SSN's for all family members prior to admission. All members of the family defined above must provide an original valid social security card.
  - (1) Current family members without a copy of the social security card in the tenant file must provide an original valid card by the next annual recertification.
  - (2) Prior to being added to the lease (newborns/adoptions/etc.) the head-of-household must provide an original valid card. **NOTE: The change to section D-h) above is effective October 1, 2009.**
    - (a) Applicant Screening Information; and the HA documented direct knowledge or 3rd party.
    - (b) Citizenship or eligible immigration status: Citizens are permitted to certify to their status. Eligible Immigration status will be verified with INS.
- i. Applicants reporting zero income will be asked to complete a family expense form to document how much they spend on: food, transportation, health care, child care, debts, household items, etc. and what the source of income is for these expenses.
- j. The HA's applications for admission HCV shall indicate for each application the date and time of receipt; applicant's race and ethnicity; determination by the HA as to eligibility of the applicant; when eligible, the bedroom size(s) for which eligible; preference, if any. The date, location, identification, and circumstances of each vacancy offered and accepted or rejected must be maintained.

D. The Preference System:

**The Foley Housing Authority has no preferences at this time.**

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**A family that consists only of a pregnant woman must be treated as a two person family.**

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- 3. Administration of the Preferences, if applicable:
  - a. Depending on the time an applicant may have to remain on the waiting list, the HA will either verify preferences at the time of application (when the waiting list is short or nonexistent) or require that applicants certify to their qualification for a preference at the time of pre-application (when the wait for admission exceeds four months). Verifying preferences is one of the earliest steps in processing applicants for admission. Preference verifications shall be no more than 120 days old at the time of certification.
  - b. The HA may use a pre-application to obtain the family's certification that it qualifies for a preference. The family will be advised to notify the HA of any change that may affect their ability to qualify for a preference.
  - c. Applicants that are otherwise eligible and self-certified as qualifying for a preference will be placed on the waiting list.

- d. Applicants that self-certify to a preference at the time of pre-application and cannot verify current preference status at the time of certification will be moved into the non-preference category, and to a lower position on the waiting list based on date and time of application, if applicable.

4. Notice and Opportunity for a Meeting

If the HA determines that an applicant does not meet the criteria for a preference, the HA must promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reasons for the determination, and state that the applicant has the right to meet with the HA's designee to review it. If a meeting is requested within the time specified in the notice, it must be conducted by a person or persons designated by the HA. The person designated by the HA to conduct the informal hearing shall be an impartial person appointed by the HA other than a person who made the approval of the HA's action under review or a subordinate of such person. The procedures specified in this section must be carried out in accordance with HUD's requirements. The applicant may exercise other rights if the applicant believes that he or she has been discriminated against on the basis of race, color, age, religion, sex, disability, familial status, or national origin.

E. Screening Applicants for Admission:

- (a) The HA will conduct a detailed interview of all applicants using an interview checklist as a part of the screening procedures. The form will ask questions based on the essential elements participation. Answers will be subject to third party verification.
- (b) All applicants must complete an application interview.
- (c) The applicant and all adults must sign a release allowing the HA to request a copy of a police report from the National Crime Information Center, police department or other law enforcement agencies.

F. Screening Reasons for Denial of Admission.

- (a) Outstanding balances owed to any HA or any other federally subsidized housing program is part of the screening evaluation. Outstanding balances will result in the rejection of the application.

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**Applicants that owe a HA or any other federally subsidized program funds will not be processed for occupancy. The applicant must pay the funds owed prior to the application being processed. After the application is processed, the applicant must meet all other conditions for occupancy. *Re-paying funds that are due, do not necessarily qualify an applicant for occupancy.* Such payments will be considered along with other factors in the application process. Any money owed to a HA which has been discharged by bankruptcy shall not be considered in making this determination.**

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The HA will complete a criminal background check on all adult applicants or any member for whom criminal records are available. Before the HA rejects an applicant on the basis of criminal history, the HA must notify the household of the proposed rejection and proceed under the provisions of the Criminal Records Management Policy. The HA will retain the



criminal background reports, either by paper copy or by accessing the report electronically, for those applicants denied housing until the expiration of the period for requesting an informal hearing to challenge the PHA's decision. If a paper copy was retained, it will be destroyed at the expiration of the period, at the conclusion of the informal hearing, or any litigation. If any screening activity suggests that an applicant household member may be currently engaged in illegal use of drugs, the HA may seek information from a drug abuse treatment facility or local law enforcement agency to determine whether the facility or agency has reasonable cause to believe the household member is currently engaging in illegal drug use.

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**The HA may require an applicant to exclude a household member in order to be admitted if that household member has participated in or been culpable for criminal actions that warrant rejection.**

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Record of eviction from housing or involuntary termination from residential programs (taking into account date and circumstances).

The HA is required to reject the applications of certain applicants for criminal activity or drug abuse by household members if the HA determines that:

- a. Any household member is currently engaging in illegal use of a drug; or
- b. The HA has reasonable cause to believe that a household member's illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- c. Any household member has ever been convicted of manufacture or production of methamphetamine on the premises of any federally assisted housing;
- d. Any member of the household is subject to a lifetime registration requirement under a state sex offender registration program; or

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**The HA will verify the information provided by the applicant by searching the Dru Sjodin National Sex Offender Database. The Dru Sjodin National Sex Offender Database is an online, searchable database, hosted by the Department of Justice, which combines the data from individual state sex offender registries. The website for the database is located at: <http://www.nsopw.gov>. The HA may utilize other acceptable resources when verifying sex offender status. A record of this screening, including date performed, will be retained. The HA will destroy the results of the search in accordance with 24 CFR 5.903 (g). The HA will retain the results of the search, along with the application, for a period of three years if the applicant is denied housing or, if the applicant is admitted to the program, for the term of tenancy plus three years.**

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- e. Any member of the household's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HA shall reject the application of any applicant if, within the last *three years*, any household member has been evicted from any federally assisted housing for drug related criminal activity. However, the HA may admit the household if the HA determines that:

An applicant's intentional misrepresentation of information related to eligibility, preference for admission, housing history, allowances, family composition, or rent will result in rejection. In the event the misrepresentation is discovered after admission, the assistance will

be terminated for such misrepresentation. Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.

Applicant or family member has previously been evicted from public housing, including having moved from the HA as a result of their lease being terminated by the HA.

Applicant or family member has committed acts, which would constitute fraud in connection with any federally, assisted housing program.

Applicant or family member did not provide information required within the time frame specified during the application process.

During the interview process, the applicant or a family member demonstrates hostile behavior that indicates that the prospective applicant or family member may be a threat.

If the HA uses the criminal information history to deny or terminate assistance the HA must provide a copy of the information used in accordance with Criminal Records Management Policy.

If the applicant is enrolled as a student at an institute of higher education (as defined under Section 102 of the higher education act of 1965) and;

- a. Is not a veteran
- b. Is not married
- c. Is under 24 years of age
- d. Doesn't have a dependent child
- e. Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible to receive HCV.

If the applicant is a former Public Housing or HCV participant who vacated the unit in violation of his lease, the applicant may be declared ineligible.

If the applicant doesn't certify U.S. Citizenship or legal immigration status can't be verified, the applicant must be declared ineligible.

#### G. Qualified Applicants:

- (a) Verified information will be analyzed and a determination made with respect to:
  - a. Eligibility of the applicant as a family;
  - b. Eligibility of the applicant with respect to income limits for admission;
  - c. Eligibility of the applicant with respect to citizenship or eligible immigration status;
  - d. Preference category (if any) to which the family is entitled; and
  - e. Qualification of the applicant with respect to the Selection Criteria.

#### Qualified (DETERMINED TO BE ELIGIBLE):

Families will be notified by the HA of the approximate time frame for issuance of the voucher insofar as that date can be determined; however the time frame stated by the HA is an estimate and does not guarantee that applicants can expect to be assisted by that date.

#### H. Unqualified Applicants (Time Frames):

- (a) As a rule applicants may be denied admission to HCV Housing for the following time frames, which shall begin on the date of application, unless otherwise provided for herein below:
  - a. Denied admission for **one year** for the following:



- (1) Violation of family obligation under the voucher,
  - (2) Illegal use or possession for personal use of a controlled substance,
  - (3) Abuse of alcohol,
  - (4) Demonstration of hostile behavior during the interview process that indicates that the applicant may be a threat,
  - (5) Being evicted from a HA, including having moved from a HA as a result of their lease being terminated by the HA for reasons other than as listed below,
  - (6) Having other federally subsidized housing assistance terminated for reasons other than as listed below.
- b. Denied admission for **three-years** for the following:
    - (1) Persons evicted from public housing, Indian Housing, HCV, or Section 23 programs because of drug related criminal activity (except drug trafficking) are ineligible for admission to HCV housing for a **three-year** period beginning on the date of such eviction.
    - (2) The HA can waive this requirement if the person demonstrates to the HA's satisfaction successful completion of a rehabilitation program approved by the HA, or the circumstances leading to the eviction no longer exist.
    - (3) Drug use without evidence of rehabilitation.
  - c. Denied admission for **five-years** for the following:
    - (1) Fraud: (giving false information on the application or during an interview is considered fraud).
    - (2) An arrest or conviction record that indicates that the applicant may be a threat and/or negative influence on other persons residing in the immediate vicinity of the premises. The five years shall begin on the date of the last reported act, completion of sentence and/or probation period. (Whichever is later).
  - d. Denied admission for **10-years** for Conviction for drug trafficking.
  - e. Denied admission **for life** to any household that includes any individual who is subject to a lifetime registration requirement under a State sex offender registration program.
  - f. Denied admission **for life** to any applicant who has been convicted of manufacturing or producing methamphetamine (commonly referred to as "speed") on the premises of an assisted housing project. Premises are defined as the building or complex in which the dwelling unit is located, including common areas and grounds.

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**These time frames (with the exception of 5 and 6 which are HUD mandated) are only guidelines and the HA may deny admission to any individual whose behavior may adversely affect the health, safety, welfare, or right to peaceful enjoyment of the residences by persons residing in the immediate vicinity of the premises or may admit persons who exhibit evidence of rehabilitation.**

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2. Notice to Denied Applicants:

Unqualified applicants will be promptly notified by a Notice of Rejection or Denial from the HA, stating the basis for such determination and offering an opportunity for informal hearing (see Procedure for Informal Hearing for Rejected Applicants). The denial letter will allow the applicant 10 calendar days to request an informal

meeting (verbal and/or in writing) with the HA. An HA representative will hear the appeal and issue a decision within 10 calendar days of the meeting.

## **VIII. SUBSIDY STANDARDS**

### **A. Guidelines:**

The following guidelines shall determine the number of bedrooms required to accommodate each family without overcrowding or over housing.

**Suggested Guidelines**

<b>Number of Bedrooms</b>	<b>Number of Persons</b>	
	<b>Minimum</b>	<b>Maximum</b>
1 Br	1	2
2 Br	2	4
3 Br	3	6
4 Br	4	8
5 Br	5	10
6 Br	6	12

The following principles govern the size of the voucher for which a family will qualify.

Generally, two people are expected to share each bedroom, except that subsidy standards will be so assigned that:

- (a) It will not be necessary for adults of different generations or opposite sex, other than husband and wife, to occupy the same bedroom.

Exceptions to the largest permissible subsidy size may be made in case of reasonable accommodations for a person with disabilities, if requested. In the case of chronic illness, or other physical infirmity, a deviation from the occupancy guidelines, as presented above, is permissible when justified with evidence and documentation from a licensed physician.

Two children of the opposite sex over the age of six years will not be required to share a bedroom.

At the option of the HA, an infant, up to the age of two years, may share a bedroom with its parent(s). The HA may, but it is not required to, consider an unborn child in determining subsidy size.

The HA will count a child who is temporarily away from the home because the child has been placed in foster care for six months or less, is away at school or other situations that can be documented.

A single head of household parent shall not be required to share a bedroom with his/her child over the age of two years.

A live-in attendant will be assigned a bedroom. Singles 50 years of age or older or disabled residents with live-in attendants will be assigned two bedroom units.

At the HA's discretion, children with an age difference of at least two years may be entitled to their own room.

## IX. Selection Process

### A. Housing Voucher Selection and Participation Process:

#### 1. Types of Selection:

The HA may admit an applicant for participation in the program either:

- a. As a special admission (see definition below), or
- b. As a waiting list admission.

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**A HCV Participant is responsible for finding an existing housing unit suitable to the holder's needs and desires that meets HQS and rent reasonableness standards.**

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#### 2. Special Admissions:

If HUD awards the HA program funding that is targeted for families living in specified units:

- a. The HA must use the assistance for the families living in these units.
- b. The HA may admit a family that is not on the HA waiting list, or without considering the family's waiting list position. The HA must maintain records showing that the family was admitted with HUD-targeted assistance.
- c. For housing covered by the Low-Income Housing Preservation and Resident Home ownership Act of 1990 (41 U.S.C. 4101 et seq.):
- d. A family residing in a project covered by a project-based HCV HAP contract at or near the end of the HAP contract term.

### B. Organization of the Waiting List:

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

- (a) Applicant name;

Family voucher size (number of bedrooms for which family qualifies under HA subsidy standards);

Date and time of application;

Local Preferences.

### C. Order of Selection from the Waiting List:

- (a) When a Housing Voucher assistance is available, the HA will select the family at the top of the waiting list. The order of admission from the waiting list MAY NOT be based on family size, or on the family unit size for which the family qualifies for under the HA subsidy standards. If the HA does not have sufficient funds to subsidize the family unit size of the family at the top of the waiting list, the HA MAY NOT skip the top family to admit an applicant with a smaller family unit size. Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.

Provided, however, the provisions of the Deconcentration Rule, contained within this plan, shall supersede the selection of applicants based on date and time and local preference points, if applicable, and allow the HA to skip families on the waiting list to accomplish this goal.

### D. Maintaining the Waiting List:

The HA will remove an applicant's name from the waiting list for the following:

- (a) The HA will remove names of applicants who do not respond or for which certified mail has been returned undeliverable to HA request for information or updates.

The HA will remove the names of applicants who refuse the HA's offer of tenant-based assistance.

#### E. Quality Control

1. In creating the universe for quality control purposes for this section, the HA will utilize the minimum sample as defined in 24 CFR 985.2: 50 or less a minimum of 5 files/records to be sampled; 51 – 600 will equate to 5 plus 1 for each 50 (or part of 50) over 50; and/or 601 – 2000 will equate to 16 plus 1 for each 100 (or part of 100) over 600 number of files or records to be sampled; over 2000 will equate to 30 plus 1 for each 200 (or part of 200) over 2000.
2. The HA will utilize random.org and/or some other random selection method to select two quality control samples:
  - (1) from applicants who reached the top of the waiting list, and
  - (2) from *admissions*. To receive full points for SEMAP purposes, at least 98% of both samples must have been selected for admission in accordance with the PHA's policy. It is the HA's goal to create a clear audit trail that can be used to verify that the quality control samples were drawn in an unbiased manner.

### X. Orientation of Families and Issuance of Housing Voucher

#### A. Briefing:

The purpose of the briefing is to go over the Housing Voucher holder's packet and inform the participant about the program so that he/she will be able to discuss it with potential landlords.

#### B. Briefing Attendance Requirement:

All families (head of household) are required to attend the briefing when they are initially issued a Housing Voucher. No Housing Voucher will be awarded unless the head of household has attended a briefing.

Failure to attend a scheduled briefing (without notice to the HA) will result in the family's application being placed in the inactive file and the family may be required to reapply for assistance. Applicants who provide prior notice of an inability to attend a briefing will be scheduled for the next briefing.

Failure of an applicant, without good cause, to participate in a scheduled briefing shall result in the file being made inactive.. The applicant will be notified that their file was made inactive and determination of ineligibility and of his/her right to an informal review as outlined in Section XXXIX.

#### C. Format of the Briefing:

When a Family initially receives its Housing Voucher, a full explanation (oral) of the following shall be provided to assist the Family in finding a suitable unit and to apprise the Family of its responsibilities and the responsibilities of the Owner (this may be done either in group or individual sessions depending on the circumstances). Also, families will be given adequate opportunity to raise questions and to discuss the information listed below:

- (a) A description of how the program works;
  - Family and Owner Responsibility; and
  - Where the family may lease a unit, including renting a dwelling unit inside or outside the HA jurisdiction.
  - Description of EIV process.
  - Portability
- The briefing must explain the advantages of selecting a unit in an area that does not have a high concentration of poor families.

**D. Voucher Package:**

If an applicant/participant should request a Voucher Package (aka: Briefing Package) at any time, other than at the time of a scheduled briefing; the cost will be \$16.00 if picked up at the office or \$25.85 if mailed COD. Prices are subject to change pending increase(s) in postage and/or package size.

When issuing a Housing Voucher, the HA shall give the Family a HCV Participant's Packet, which includes:

**1. Voucher Term:**

The term of the voucher is 60 days from the date of issuance. Prior to expiration, the family may contact the HA to inquire about assistance the HA can provide the family in locating suitable housing. The family must submit a Request for Tenancy Approval within the 60-day period unless an extension has been granted by the HA. Once the family has submitted a Request for Tenancy Approval the clock is stopped and/or suspended on the term of the voucher (See "Suspension"). If the unit is not approved for any reason, the remaining days will be reinstated. If the initial term is not adequate for finding a unit to lease, the family may request an extension of the initial term as described below.

**2. Requesting for Extensions of the Term:**

A family may request an extension of the Voucher time-period. All requests for extensions should be received prior to the expiration date of the Voucher. Extensions are permissible at the discretion of the HA primarily for the following reasons:

- a. Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial 60-day time period. The HA representative will verify the extenuating circumstances prior to granting an extension.
- b. The family has evidence that they have made a consistent effort to locate a unit and request support services from the HA, throughout the initial 60-day period with regard to their inability to locate a unit.
- c. The family has turned in a Request for Tenancy Approval prior to the expiration of the 60-day time period, but the unit has not passed HQS.

3. Determining the Family Housing Assistance Payment:  
How the HA determines the housing assistance payment for a family, including information on the payment standard and the HA utility allowance schedule.
4. Maximum Rent Determination:  
How the HA determines the maximum rent for an assisted unit;
5. Family's Considerations:  
What the family should consider in deciding whether to lease a unit, including:
  - a. The condition of the unit; Note: The family should consider cosmetic conditions that may not be an HQS consideration.
  - b. Whether the rent is reasonable;
  - c. The cost of any tenant-paid utilities and whether the unit is energy-efficient; and;
  - d. The location of the unit, including proximity to public transportation (if applicable), centers of employment, schools, and shopping.
  - e. The family should consider the crime level of the neighborhood.
6. Where the Family May Lease:  
Where the family may lease a unit. The information packet must include an explanation of how portability works and when families qualify.
7. HUD Required "Lease Addendum:"  
The lease addendum is the language that must be included in the lease.
8. Request for Tenancy Approval:  
The form of request for tenancy approval, and an explanation of how to request HA approval to lease a unit;
9. PHA Plan on Providing Information:  
A statement of the HA plan on providing information about a family to prospective owners (See Section XIII);
10. Subsidy Standards:  
The HA subsidy standards, including when the HA will consider granting exceptions to the standards;
11. How to Select a Unit:  
The HUD brochure on how to select a unit;
12. Lead Based Paint:  
The HUD lead-based paint (LBP) brochure;
13. Federal, State, and Local Equal Opportunity Laws:  
Information on federal, state, and local equal opportunity laws, a copy of the HA's request for a reasonable accommodation form, and a copy of the housing discrimination complaint form;
14. Landlord List:  
A list of landlords or other parties known to the HA who may be willing to lease a unit to the family, or help the family find a unit;
15. Disabled Notice:

Notice that if the family includes a disabled person, the family may request a current listing of accessible units known to the HA that may be available;

16. Family Obligations under the Program:

17. Grounds for Termination:

The grounds on which the HA may terminate assistance for a participant family because of family action or failure to act; and

18. Informal Hearing Procedures:

The informal hearing procedures. This information must describe when the HA is required to give a participant family the opportunity for an informal hearing, and how to request a hearing.

19. Reasonable Accommodation Form & VAWA Form

A copy of the HA's Request for a Reasonable Accommodation Form and a copy of the VAWA forms.

**NOTE REGARDING REPLACEMENT COST OF VOUCHER PACKAGE: If an applicant/participant should request a Voucher Package (aka: Briefing Package) at any time, other than at the time of a scheduled briefing; the cost will be \$16.00 if picked up at the office or \$25.85 if mailed COD. Prices are subject to change pending increase in postage and/or package size.**

## **XI. Housing Authority Disapproval of Owner**

A. HUD Disapproval:

The HA must not approve a unit if the HA has been informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation. Also, the HA must not approve a unit if:

- (a) The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and the action is pending; or

A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

If the owner is a parent, child, grandparent, grandchild, sister, or brother of any member of the participant family, the HA must not approve the unit. However, if the housing authority determines that approval of the unit would provide reasonable accommodation for a family member who is a disabled person, the unit may be approved.

Conflicts of interest

- a. Present or former member or officer of the HA, except a participant commissioner.
- b. Employee of the HA or any contractor, sub-contractor or agent of the HA who formulates policy or influences program decisions.
- c. Public official, member of a governing body, or state or local legislature who exercises function or responsibility related to the program.
- d. Members of U.S. Congress.

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**The HUD Field Office may waive the conflict of interest requirements, except for members of Congress, for good cause.**

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**B. HA Administrative Discretion:**

The HA will deny approval to lease a unit from an owner for any one of the following:

(a) Owner has violated obligations under a HAP contract.

Owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

The owner has engaged in drug-trafficking.

The owner has a history or practice of non-compliance with the HQS requirements, State, or local housing codes.

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

Current or prior history of refusing to evict HCV program or other assisted housing tenants for activity by the tenant, any member of the household, a guest, or another person under the control of any member of the household that:

- a. Threatens the right to peaceful enjoyment of the premises by other residents;
- b. Threatens the health or safety of residents, HA employees, or owner employees;
- c. Threatens the neighbors' health or safety, or neighbors' right to peaceful enjoyment of their residences;
- d. Engages in drug related criminal activity or violent criminal activity.

**XII. Owner Responsibility for Screening**

**A. Suitability for Tenancy:**

The HA must inform the owner that the HA has not screened the family's behavior or suitability for tenancy and that such screening is the owner's own responsibility.

**B. Family's Background:**

An owner may consider a family's background with respect to such factors as:

(a) Payment of rent and utility bills.

Caring for a unit and premises.

Respecting the rights of others to the peaceful enjoyment of their housing.

Drug-related criminal activity or other criminal activity that is a threat to the life, safety or property of others and compliance with other essential conditions of tenancy.

Complies with other essential conditions of tenancy.

**C. Information Provided Owner Concerning Tenancy:**

The HA must give the owner the family's current address (as shown in the HA records) and the name and address of the landlord at the family's current and prior addresses, if known to the HA.

**XIII. Where a Family Can Lease - Including Portability**

**A. Assistance in the Initial HA Jurisdiction:**

The family may receive tenant-based assistance to lease a unit located anywhere in the jurisdiction of the initial HA.

**B. Limited Moves:**



The number of times a family is permitted to move is limited to one (1) time during any twelve month period. The HA may, at its discretion, allow an exception if there are extenuating circumstances which justify the family's need to move prior to meeting the twelve month obligation.

C. Portability - Assistance Outside the Initial HA Jurisdiction:

Families living in the jurisdiction of the initial HA may receive tenant-based assistance to lease a unit in the jurisdiction of an HA anywhere in the United States that is administering a tenant-based program. Once a participant transfers under the portability procedures the receiving HA's policies govern the continuing participation.

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**Exception:** If the HA does not have sufficient funds to cover the cost of a port to a higher cost area the HA will deny the port unless the receiving HA agrees in writing to absorb. The HA will document the lack of funds using Appendix "B."

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**Applicants that do not live in the jurisdiction of the initial HA at the time they apply for tenant-based assistance do not have any right to lease a unit outside the initial HA's jurisdiction until they have been on the program for twelve (12) months.**

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D. Income Eligibility

1. For admission:

a family must be income eligible in the area where the family initially leases a unit under the program.

2. Port-In:

If a portable family was already a participant in the initial HA program, income eligibility is not redetermined.

E. Leasing in Place:

A family may select their current dwelling unit for participation in the program if the dwelling unit is approved.

F. Freedom of Choice:

The HA may not directly or indirectly reduce the family's opportunity to select among available units.

G. Portability - Administration by Receiving HA:

When a family moves under portability to an area outside the initial HA jurisdiction, another HA (the receiving HA) must administer assistance for the family if a HA with a tenant-based program has jurisdiction in the area where the unit is located. When this situation exists, the HA with jurisdiction in the area where the family wants to lease a unit must issue the family a voucher. If there is more than one such HA, the initial HA may choose the receiving HA.

H. Portability Procedures:

1. Initial PHA Responsibilities:

- a. When a family wishes to move under portability, the family **must** inform the initial PHA of the area to which the family wishes to move. In the case where the family is not currently a program participant, the initial PHA must determine if the family is income eligible in the area to which the family wishes to move. If the family is not income eligible in the area to which the family wishes to move, the PHA must inform the applicant family they may not move to the area in question and receive voucher assistance. Income eligibility is not redetermined when a participant family (a family that is already under a HAP contract) exercises portability.
- b. Contact the receiving PHA on the family's behalf. The initial PHA must promptly notify the receiving PHA to expect the incoming family (see CFR 982). This means the initial PHA contacts the receiving PHA on the family's behalf, typically by telephone, fax, or email. Simply referring the family to HUD or a website for information on the receiving PHA's address does not fulfill the responsibilities of the initial PHA under the program regulations. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA (e.g., the name and telephone number of the staff person responsible for working with incoming portability families and any procedures related to appointments for voucher issuance the receiving PHA has shared with the initial PHA). The revised Form HUD-52665 now contains a line that the initial PHA uses to identify the receiving PHA to which the initial PHA is referring the family.
- c. **Completion of Part I of the Form HUD-52665.** The initial PHA completes Part I of the Form HUD-52665 and mails or faxes it to the receiving PHA, along with a copy of the family's voucher issued by the initial PHA, a current copy of Form HUD-50058, and copies of the income verification backing up the form. (Note that in the case of an applicant, the initial PHA has not completed the HUD-50058 and submitted the information to HUD because the family is not yet a new admission. However, the PHA must provide the family information and income information to the receiving PHA in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA.)
- d. Part I of the form contains the date by which the initial billing notice provided by the receiving PHA must be received by the initial PHA.

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**Note that the initial billing deadline has changed. The initial billing submission must be received by the initial PHA no later than 60 days following the expiration date of the family voucher issued by the initial PHA.**

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- e. If the initial PHA has not received a billing notice by the deadline, the initial PHA must contact the receiving PHA to determine the status of the family if the initial PHA intends not to honor a late billing submission. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may inform the receiving PHA that they will not accept any subsequent billing on behalf of the family. Once the initial PHA has so notified the receiving PHA, the initial

PHA is not required to honor any billing notice received after the billing deadline. If the initial PHA still subsequently receives a late billing notice on behalf of the family, it simply returns the late Form HUD-52665 to the receiving PHA, and the receiving PHA must absorb the family.

- f. If the receiving PHA reports that the family is under HAP contract and it cannot absorb when the initial PHA contacts the receiving PHA to determine the status of the family, the initial PHA is required to accept the subsequent late billing. The initial PHA may contact HUD to report the receiving PHA's failure to submit the bill in accordance with these procedures. HUD may take action to address the receiving PHA's failure to do so, which may include reducing the receiving PHA's administrative fee. In addition, in such a case HUD may subsequently transfer units from the receiving PHA to the initial PHA when it is feasible, since the initial PHA was required to accept the late billing.

## 2. Receiving PHA Responsibilities:

- a. The receiving PHA must promptly issue a voucher to the family for its search in the receiving PHA jurisdiction, the term of which may not expire before the expiration date of the initial PHA voucher. The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA voucher, either when it initially issues its own voucher or by subsequently extending its own voucher's term. However, if the receiving PHA provides the family with search time beyond the expiration date of the initial PHA's voucher, it must inform the initial PHA of the extension and should 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 Lease Approval, execute a HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) so that it will be received by the initial PHA by the deadline date.
- b. A receiving PHA should not process the family if the initial PHA voucher has already expired when it receives the paperwork from the initial PHA, but should refer the family back to the initial PHA. The initial PHA would have to decide to extend the term of the initial PHA voucher (and the billing deadline) before the receiving PHA would process the portability move in such an instance.
- c. HUD expects the receiving PHA to process the family's paperwork and issue the incoming family a voucher for its jurisdiction within two weeks of receiving the HUD-52665 and supporting documentation, provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures. For example, it is unacceptable for the receiving PHA to delay processing the family's paperwork and issuing a voucher because it wishes the family to attend a group briefing that is not scheduled for three weeks. The receiving PHA does not re-determine eligibility for a portable family that was already receiving voucher assistance and may not unduly delay the family's housing search in issuing the voucher.
- d. Should the PHA wish to conduct its own background checks and/or conduct a new income reexamination on a family that has already received housing assistance payments under the initial PHA, the receiving PHA may not delay

issuing the family a voucher or otherwise delay approval of a unit until such time that those processes are completed. The PHA may of course take subsequent action (e.g., recalculating the HAP payment based on updated income information; terminating the family's participation in the program due to criminal background or failing to disclose necessary information) against the family based on the results. In the case of an applicant family, the receiving PHA may delay issuing or otherwise delay approval of a unit only if the re-certification is necessary to determine income eligibility.

- e. In any event, the PHA may always delay approval of the unit or issuance of the voucher if the family refuses to comply with the receiving PHA procedures (such as completing disclosure forms or certifications). In any case where the PHA is refusing to process or provide assistance under the portability procedures, the family must be given the opportunity for an informal review or hearing.
- f. 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 or wishes 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 extensions of search time provided by the receiving PHA voucher are only valid for the family's search in the receiving PHA jurisdiction. 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.
- g. The receiving PHA may absorb the family into its own program once the HAP contract is executed on behalf of the family by the receiving PHA, assuming it has funding available under its ACC to do so and such a decision will not result in over-leasing. The receiving PHA may also absorb a portable family assisted through a billing arrangement by terminating the billing arrangement with the initial PHA. In such a case, 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.
- h. To clarify any misunderstanding over the purpose and use of the absorption option, a PHA does not technically "absorb" a family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA jurisdiction. If the family is not placed under HAP contract in the receiving PHA jurisdiction, the receiving PHA cannot absorb the family.
- i. **Part II of Form HUD-52665.** The receiving PHA must promptly inform the initial PHA if it intends to absorb or bill. The receiving PHA sends Part II of Form HUD-52665 to the initial PHA. If the receiving PHA decides to bill the initial PHA, the receiving PHA not only completes Part II of the Form HUD-52665, but also attaches a copy of the new Form HUD-50058 before returning it to the initial PHA. In addition to the initial billing deadline discussed above, the instructions of the Form HUD-52665 provide that the receiving PHA must complete and mail (which may include electronic mail or fax) Part II of the form

within 10 working days from the date a HAP contract is executed on behalf of a family.

- j. HUD is aware that in some instances receiving PHAs have submitted initial billings well after 10 working days, creating significant difficulties for initial PHAs. **Effective 30 days following the issuance date of this notice, the initial PHA is generally not obligated to honor initial billings that are postmarked, emailed, or faxed more than 10 working days after the date the HAP contract is executed.** (Note that it is the date the HAP contract is executed, not the effective date of the HAP contract, which is at issue. For instance, if a PHA executes a HAP contract within 60 days of the approval of the unit, the HAP contract may be retroactive to the date the unit was approved. It is the date the PHA executed the contract, not the retroactive effective date of the contract, that establishes the deadline by which the initial billing must be mailed, emailed or faxed.) The initial PHA must immediately inform the receiving PHA in writing of its decision not to accept the late billing submission. **A receiving PHA that failed to send the initial billing within 10 working days following the date the HAP contract is executed is generally required to absorb the family into its own program unless the initial PHA is willing to accept the late submission.**

HUD may in certain instances require the initial PHA to honor a billing submission that is received after the 10 day deadline (such as where the receiving PHA is over-leased and is in danger of not being able to stay under unit months available for its fiscal year). In such a case HUD may take action to address the receiving PHA's failure to submit the notification in a timely manner, which may include reducing the receiving PHA's administrative fee and subsequently transferring units from the receiving PHA to the initial PHA.

3. Timing of the Initial and Subsequent Billing Payments.

- a. The initial PHA must pay the first billing amount due within 30 calendar days of receipt of Part II of the Form HUD-52665. Subsequently, the initial PHA must make payment each month the billing arrangement is in effect. The payment must be provided in a form and manner that the receiving PHA is able and willing to accept. Initial PHAs involved in billing arrangements must ensure that subsequent monthly billing payments are received by the receiving PHA **no later than the fifth working day of each month.** This plan goes into effect for existing billing arrangements 60 days following the effective date of this notice.
- b. In many cases billing difficulties simply result from miscommunications that are often resolved by the PHAs without HUD intervention. HUD continues to encourage PHAs to work cooperatively to resolve billing difficulties. However, it is ultimately the responsibility of the initial PHA to make billing payments in a timely manner.
- c. The program regulations at CFR 982 provide that HUD may transfer funds for assistance to portable families to the receiving PHA from funds available under the initial PHA ACC. Upon request of the receiving PHA, HUD will exercise this authority to transfer units from the initial PHA to the receiving PHA in cases where the initial PHA fails to comply with the initial and subsequent monthly billing due dates described above.

- d. The initial PHA may not terminate or delay making payments under existing billing arrangements as a result of over-leasing or funding shortfalls at the initial PHA program. PHAs may only terminate HAP contracts as the result of insufficient funding in accordance with CFR 982 to which they are a party.
4. Receiving PHA: On-going Responsibilities.
- a. Effective 30 days following the issuance date of this notice, the receiving PHA must send the initial PHA a copy of the updated Form HUD-50058 at each annual recertification 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. The purpose of this notification is to serve as an annual “reconciliation” to assist both PHAs in fulfilling their accounting and record-keeping responsibilities. Should the initial PHA fail to receive an updated Form HUD-50058 by the annual recertification date, it should contact the receiving PHA to verify the status of the family.
  - b. The receiving PHA is also required to send a new Form HUD-52665 along with the Form HUD-50058 to report any change in the billing amount, if applicable. 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. However, under no circumstances should the notification be later than 10 working days following the effective date of the change in the billing amount.
  - c. If the receiving PHA is absorbing a family for which it has been billing or if the housing assistance payments are terminated for any reason, the receiving PHA should provide adequate notice of the effective date of the absorption or termination to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 working days following the effective date of the termination of the billing arrangement.
  - d. In the case where a family currently under a billing arrangement subsequently decides it wants to move under portability to yet another jurisdiction, the receiving PHA does not issue the family a voucher in order to do so. Instead, the receiving PHA notifies the initial PHA of the family request to port to another jurisdiction. The initial PHA is responsible for issuing the family's voucher and sending the Form HUD-52665 and supporting documentation to the new receiving PHA. Good communication between all three PHAs is very important in such a circumstance.
5. Summary of Portability Billing Deadlines.
- The following summarizes the relevant deadlines under the portability billing procedures.
- a. Submission of Initial Billing Amount (Part II of the Form HUD- 50058): Receiving PHA must submit initial billing notice (1) no later than 10 working days following the date the HAP contract was executed and (2) in time that it will be received no later than 60 days following the expiration date of the family’s voucher issued by the initial PHA.
  - b. Payment of First Billing Amount: Initial PHA makes payment within 30 days of receipt of Part II of the Form HUD 50058 indicating billing amount.



- c. Payment of Subsequent Billing Amounts: The initial PHA is responsible for ensuring that subsequent billing amounts are received no later than the fifth working day of each month for which the monthly billing amount is due.
- d. Notification of Change in Billing Amount or Other Action: The receiving PHA notifies the initial PHA of any change in the billing amount as soon as possible (preferably before the effective date to avoid retroactive adjustments) but in no circumstance any later than 10 working days following the effective date of the change.

#### **XIV. Inspections of Private Landlord's Property**

When the HA receives a request for tenancy approval the HA shall inspect the unit for compliance with the HUD Housing Quality Standards (HQS). The HA's inspector will inspect the unit for compliance with HQS standards and send the owner the results of the inspection. If there are defects or deficiencies which must be corrected in order for the unit to comply with HQS standards, the Owner shall be advised, in writing, by the HA of the work required to be done before a Contract can be executed. The unit will be re-inspected to ascertain that the necessary work has been performed and the unit meets HQS standards for occupancy.

The inspection reports will specify the defects or deficiencies which must be corrected in order for the unit to be corrected for the unit to meet HQS standards. The inspection report will also reflect any other defects or deficiencies that do not cause the unit to fail, in the event of a subsequent claim by the Owner that they were caused during the period of occupancy by the Family.

#### **XV. Inspection Standards**

Before a unit can be approved for occupancy under the HCV program, the unit must meet the performance requirements set forth in 24 CFR, which are the Housing Quality Standards (HQS).

##### **A. HQS Inspection Areas:**

The following areas are included in HQS inspections:

- (a) Sanitary facilities;
- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water supply;
- Defective paint surfaces (in units built prior to 1978);
- Access;
- Site and neighborhood;
- Sanitary condition; and
- Smoke Detectors.

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**The HA's inspection only certifies that the unit meets HQS requirements. The HA is not responsible for items not included in the HQS inspection. The HA will use HUD approved inspection forms to perform HCV Inspections.**

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B. Defective Paint Surfaces (units built prior to 1978)

1. Non-EBL Children:

When children under six years of age live in a household where the HQS inspection revealed deteriorated paint surfaces, including chipping, peeling, chalking, teeth marks, or any other defects in the paint surface in excess of the limits as found in the Federal Regulations, the landlord must test and/or abate the lead based paint hazard in accordance with the applicable federal and/or state rules and regulations. The family must be protected in accordance with the regulations.

2. EBL Children:

If a family member under six (6) years of age with an EBL is to reside in a unit built prior to 1978, the unit must be tested for lead based paint and if found positive abated in accordance with Federal Regulations. The family must be protected in accordance with the regulations.

3. Health Department Reports:

- a. Within five working days after the HA receives notification of an Environmental Intervention Blood Lead Level of 10  $\mu$ g/dL (micrograms per deciliter) or more, the HA will supply to the Health Department names or addresses of identified EBL children under the age of six (6) years;
- b. At least quarterly the HA shall provide a list of addresses of all HCV assisted units with children under the age of six to the Health Department (unless the Health Department declines the list);
- c. At least quarterly, the HA shall request a list of all children under the age of six with an EBL. If this list is supplied, the HA shall cross check the list with the addresses of HCV participants to see if any of the children listed are in the HCV program.
- d. If a match occurs that was previously unknown to the HA, the HA and the property owner must follow all requirements for units with children under the age of six (6) years old with an EBL.

C. Types of HQS Inspections:

1. Initial Inspections:

FHA is required to conduct an initial inspection for each unit as part of the tenancy approval process.

The unit shall pass the HQS inspection before the execution of the assisted lease and/or housing assistance payments (HAP) contract and the initiation of payments.

The inspector shall conduct the inspection within 15 days from FHA's approval of a Request for Tenancy Approval/or the date the unit is available for inspection. Units must be ready within 15 days of the submittal of the RFTA or the RFTA will be canceled.



The inspector will coordinate the inspection with the owner/agent.

On initial inspections, FHA will complete the HQS checklist to indicate failed items, if more than 12 HQS violations (deficiencies) are found during the initial inspection, the inspection will terminate. A copy of the checklist will be left with the owner. It is the owner's responsibility to contact FHA upon completion of the repairs to schedule a re-inspection. FHA will cancel the RFTA if repairs are not completed within 15 days of the initial inspection.

The owner shall receive information for all failed and inconclusive inspection items so that he or she is fully aware of the deficiency to make the necessary repair to correct the problem.

The owner shall be allowed no more than one re-inspection at no cost for repair work to be completed. A maximum of two re-inspections are allowed. Exceptions can be made by FHA in the best interest of parties involved.

If the time period given by the inspector to correct the deficiencies including approved extensions has elapsed, or the maximum, number of failed re-inspections has occurred, FHA will cancel the Request For Tenancy Approval and instruct the family to search for another unit.

2. Occupied/Annual inspections:

- a. For participants continuing to receive assistance and remaining in the same unit, a new inspection is required within 730 days of the last inspection.
- b. The PHA may inspect more frequently if they wish. See Notice PIH 2016-05, Attachment K
- c. SEMAP scores are based on compliance with at least biennial inspections.
- e.

It is the tenant's responsibility to ensure that the unit can be accessed for the inspection. The owner may be present for the inspection.

If neither the family nor the owner is able to be present, the inspection result will be a "no show". FHA will schedule another inspection automatically. Two instances of a "no Show" for an annual or reinspection inspection may result in the family being proposed for termination. A tenant will only be able to cancel an inspection appointment once. If the tenant misses two inspection appointments, FHA may terminate assistance to the family.

FHA shall notify owners and tenants of HQS deficiencies in writing, and indicate a time period in which to make HQS corrections. If the deficiency is an emergency item and due to the deadline to make the correction, the owner will be contacted via email or phone of the failed item(s). This will serve as notice of the deficiency.

FHA shall abate HAP payments to owners who do not comply with notifications to correct HQS deficiencies within the specified time period: 24 hours for up to 30 days depending upon the nature of the deficiency. Abatement of HAP will occur the day after the due date for repairs stated in the notice, except in the case of life threatening violations requiring corrections within 24 hours. An owner shall receive written notification of the due date and abatement date for all inspections. Following a failure to comply with a notice of deficiency, owners are not entitled to HAP payments from the abatement date until the date the repairs are made and the unit passes reinspection and meets HQS.

Both the owner and the tenant shall be notified in writing of the abatement and/or termination of housing assistance payments to the owner for failure to correct HQS deficiencies.

FHA shall terminate the HAP contract for an owner's failure to comply with its terms and conditions, including non-compliance with HQS. Both the owner and the tenant shall be notified of intent to terminate.

If the family is responsible for a breach of HQS, they will be advised by FHA of their responsibility to correct and given a timeframe for completion of repairs. No abatement of HAP will take place for tenant non-compliance.

3. Re-Inspections:

Inspections that are performed by HA staff for verifying that deficiencies noted in the previous inspection have been corrected and meet HQS. FHA will allow an inspection appointment to be rescheduled one time, per unit, per year by the owner or tenant.

4. Re-inspection Fees

The HA will charge a \$25 fee to owners for a re-inspection under two circumstances: (1) if an owner notifies the PHA that a deficiency cited in the previous inspection has been repaired and a re-inspection reveals that it has not and/or (2) if the allotted time for repairs has elapsed and a re-inspection reveals that any deficiency cited in the previous inspection that the owner is responsible for repairing has not been corrected. This fee must be paid prior to the scheduling of another re-inspection.

If the reinspection occurs after the due date for repairs, as long as the unit passes the initial reinspection abatement of HAP will not occur.

If the unit does not pass the reinspection and no extension has been granted, the unit will be abated the first of the month following the due date for repairs. Once abated, FHA will end the abatement period the day for which the repairs were made, with proper documentation, or the day before the unit passes the reinspection. An owner is not entitled to and **will not** be paid for or reimbursed for monies during the abatement period.

5. Quality Control Inspections:

Quality control inspections are periodic in nature. These inspections are conducted by FHA within 90 days of the date the last inspection was conducted. The purpose of these inspections is to determine that HQS are uniformly applied and interpreted by all

inspectors. The quality control HQS inspections are conducted for a random sample of units under HAP Contract that were inspected by FHA staff or its contractor during FHA's fiscal year which meets the minimum quality control sample size. The quality control sample is drawn from recently completed HQS inspections and is drawn to represent a cross section of neighborhoods and a cross section of units receiving assistance under the HCV program.

If the unit does not meet HQS based on the quality control inspection, FHA will notify the owner and tenant that the unit failed the inspection and is not eligible for continued assistance unless specific repairs are made by the owner and/or tenant within 30 calendar days (or within 24 hours for emergency fail items) of notification by FHA staff. FHA staff will provide the owner and tenant with a notification that lists the failed items, identifies the responsible party, specifies the due date for repairs, and advises the owner that if the owner does not make the necessary repairs, FHA will stop payment to the owner on the day following the due date unless the deficiencies are the responsibility of the resident.

6. Special Inspections:

These types of inspections may be necessary when a federal official visits the HA to perform a compliance review of the HA and/or the owner or tenant may request a special inspection be performed to document the condition of the unit.

7. Emergency Inspections

Emergency Inspections must be completed within 24 hours of notification of a life-threatening item. "Life threatening items" include:

- Sewage backup
- Utilities are not on (i.e. electric, gas, and/or water)
- Smoke detector missing, damaged, or missing battery
- Electrical outlets and light switch covers that are missing
- GFCI outlets that do not function properly (open grounds on GFCI are acceptable)
- Improper flue connection for furnace or water heater

These conditions must be corrected within 24 hours and verified by an inspection or, at the discretion of the FHA a written form of confirmation from the landlord may be accepted. If written documentation is provided it must have the contact information (including the name and phone number) of the person/company who made the repairs. The document must be signed by the responsible party certifying that the emergency item has been corrected. The document must then be either faxed to the inspector or HA or it may be hand-delivered to the HA within the 24 hour period.

If emergency items are discovered during an annual or any other type of inspection, the same requirements are applicable.

The Inspector can visually verify the repairs for the emergency inspection on the re-inspection of the annual inspection. If the only item on the inspection is an emergency item, then a visual

verification shall take place within 5 business days. For utilities, once confirmed by the utility company, no physical inspection is required.

If the landlord/tenant supplied utilities are off, utilities must be on and verified via phone call to the appropriate utility company or a receipt with the current date must be provided to the HA.

If a landlord or tenant misrepresents to the FHA that repairs were made and the inspector discovers the repairs were not made satisfactorily, the contract with the landlord may be canceled for this unit. This may lead to the termination of the landlord from the HCV program. If the tenant was responsible, this may lead to termination.

## **XVI. Rent and Rent Reasonableness**

### **A. Negotiating Rent to Owner:**

The rent to the owner is a matter of negotiation between the owner and the family. The rent must be within the guidelines of “rent reasonableness,” and this rental amount must be certified by the HA as falling within the guidelines of “rent reasonableness.” If requested by the family, the HA must also assist the family in negotiating a reasonable rent with the owner.

### **B. Rent to Owner: Reasonable Rent**

#### **1. HA determination**

a. The HA may not approve a lease until the HA determines that the initial rent to owner is a reasonable rent.

(1) The HA must re-determine the reasonable rent:

(2) Before any increase in the rent to owner;

(3) If there is a five (5%) percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary; or

(4) If directed by HUD,

(5) The HA may also re-determine the reasonable rent at any other time.

#### **2. Comparability:**

The HA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units.

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**The rent reasonableness methodology used by this HA is attached to this document as Appendix “C.”**

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#### **3. Owner certification of rents charged for other units:**

By accepting each monthly housing assistance payment from the HA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the HA information requested by the HA on rents charged by the owner for other units on the premises or elsewhere.

C. Rent to Owner: (Effect of rent control)

In addition to the rent reasonableness limit under this subpart, the amount of rent to owner also may be subject to rent control limits under State or local law.

D. Rent to Owner: (In subsidized projects).

1. Subsidized rent.

- a. The rent to owner in an insured or noninsured Section 236 project, Section 515 project of the Rural Development Administration, Section 202 project, or Section 221(d)(3) below market interest rate project is the subsidized rent.
- b. During the assisted tenancy, the rent to owner must be adjusted to follow the subsidized rent, in accordance with the lease.

2. H.O.M.E.

For units assisted under the H.O.M.E. program, rents are subject to requirements of the HOME program.

E. Other Fees and Charges

- (a) The cost of meals or supportive services may not be included in the rent to owner, and the value of meals or supportive services may not be included in the calculation of reasonable rent.

The lease may not require the participant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy. The owner may not charge the participant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

## **XVII. Lease Approval**

When a family finds a unit, and the owner is willing to lease the unit under the program, the family must request the HA to approve the lease and unit.

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**Property Owners cannot participate in the program if they are disapproved by the HA as outlined in Section XII.**

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A. Notification:

If the HA determines that a unit which an Eligible Family wishes to lease meets HQS, rent reasonableness and the proposed Lease is approvable, the HA shall notify the Owner and the Family of its determination of Lease approval.

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**The HA only reviews the landlord's standard lease to insure that HUD requirements are met.**

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**Maximum Allowable Family Contribution: At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed 40% of the family's monthly adjusted income.**

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B. HA Disapproval of Lease:

The HA may disapprove a lease for a rent that is not reasonable, based on rents charged for comparable rental units. HA's may exercise this authority in communities where the market is not functioning normally or where some families are not able to negotiate reasonable rent on their own. For example, where there is a concentration of ownership by a small number of landlords, or where rents charged to voucher holders are greater than rents charged to non-assisted families living in comparable units. A HA must document each case in which it disapproves a lease because the rent is not reasonable.

C. Execution of the Lease:

After receiving notification from the HA, the Owner and the voucher holder will provide an executed copy of the lease (dated on or after the lease approval) to the HA representative. The HAP Contract must be executed within 60 days of the effective date of the signed lease.

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**No HAP can be paid until the contract (HAP) is executed; however, once executed, payments will be retroactive to the effective date of the Lease.**

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**If the HAP contract is not executed within 60 days the process must start from the beginning with a new request for lease approval.**

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D. The HA shall retain the following in its files:

(a) The Request for Lease Approval;

The approved Lease;

Inspection report;

HA certification that the current rent being charged for comparable units in the private unassisted market, taking into account the location, size, type, quality, amenities, facilities and management and maintenance service of such unit. This certification will be maintained for three years to comply with HUD regulations and HUD inspections; and,

Executed Contract.

## **XVIII. Monthly Housing Assistance Payments (HAP)**

Monthly payments will be made to an owner on behalf of a family participating in the HCV Program. Payments will be issued in accordance with the Housing Assistance Payment Contract. The checks or electronic deposits will be issued on a monthly basis and mailed/deposited directly to the participating owner by the tenth (10<sup>th</sup>) working day of each month. A copy of the check/transfer will be kept and serve as a record of payment.

## **XIX. Security Deposit**

The owner establishes the amount of the security deposit to be charged. The security deposit should be consistent with private market practice or security deposits for the owner's unassisted units subject to state law. When the participant moves out of the dwelling unit, the owner, subject to state law, may use the security deposit, including any interest on the deposit, in accordance with

the lease, as reimbursement for any unpaid rent payable by the participant, damages to the unit or for other amounts the participant owes under the lease. The owner must give the participant a written list of all charges against the security deposit, and the amount of each item. The owner must refund the security deposit balance in accordance with state law.

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**IF THE SECURITY DEPOSIT IS NOT SUFFICIENT TO COVER AMOUNTS THE PARTICIPANT OWES UNDER THE LEASE, THE OWNER MAY SEEK TO COLLECT THE BALANCE FROM THE PARTICIPANT. THE HA IS NOT RESPONSIBLE FOR ANY DAMAGES OR OTHER MONEY THE PARTICIPANT OWES UNDER THE LEASE.**

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## **XX. Housing Assistance Payment (Calculations)**

### **A. Payment Standard:**

A payment standard is used to calculate the monthly housing assistance payment for a family.

### **B. Amount of assistance**

#### **1. Maximum and Minimum:**

The HA must adopt a payment standard schedule that establishes payment standards for the HA voucher program. For each FMR area and for each exception rent area, the HA must establish voucher payment standard amounts by unit size (zero-bedroom, one-bedroom, and so on).

#### **2. Formula:**

- a. The housing assistance payment for a family equals the lesser of:
  - (1) The applicable payment standard minus 30 percent of monthly adjusted income; or
  - (2) The monthly gross rent minus the minimum rent.
- b. The minimum rent is the higher of:
  - (1) 10 percent of monthly income (gross income); or
  - (2) The HA's established minimum rent.

#### **3. Calculating the HAP for a family:**

The HA must use the applicable payment standard from the HA payment standard schedule for the fair market rent area (including the applicable payment standard for any HUD approved exception rent area) where the unit rented by the family is located.

### **C. Payment standard for family:**

- (a) The payment standard for a family is the lower of:
  - a. The payment standard for the family unit size; or
  - b. The payment standard for the unit size rented by the family; or
  - c. The gross rent for the unit.

If the unit rented by a family is located in an exception rent area, the HA must use the appropriate payment standard for the exception rent area.



- a. During the HAP contract term for a unit, the amount of the payment standard for a family is the higher of:
- b. The initial payment standard (at the beginning of the lease term) minus any amount by which the initial rent to owner exceeds the current rent to owner; or
- c. The payment standard as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

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**If payment standards are reduced the new payment standard does not become effective until the second reexamination for units under existing contract.**

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**D. Distribution of Housing Assistance Payment:**

The monthly housing assistance payment is distributed as follows:

- (a) The HA pays the owner the lesser of the housing assistance payment or the rent to owner.

If the housing assistance payment exceeds the rent to owner, the HA may pay the balance of the housing assistance payment either to the family or directly to the utility supplier to pay the utility bill on behalf of the family.

## **XXI. Determination of Rent and Re-Examinations (See admissions Section for guidance)**

**A. Annual Re-examination**

- (a) Once each year, or as required by this HA, the HA must reexamine the income and family composition of all families participating the HCV Program in accordance with 24 CFR. Verifications acceptable to the HA shall be obtained and determinations made. In the event of failure or refusal of the family to report the necessary information, the HA may terminate the assistance.

Records shall be maintained by the HA to insure that every participant's income and family composition has been reexamined within a twelve month period.

Upon completion of reexamination and verification, the participant shall be provided reasonable advanced notice (generally assumed 30 days), in writing (A copy of such notification is to be retained in the participant's file.)

- a. Any change in the family's portion of rent and the date on which it becomes effective.
- b. Any change required because of a change in the composition of the family.

**B. Interim Re-determination of Rent:**

Rent as set at admission or annual re-examination will remain in effect for the period between regular rent determinations unless changes in family circumstances occur. The participant is required and agrees to report, in writing, the following specified changes in family income and composition within ten (10) calendar days of occurrence.

- (a) Loss or addition to family composition of any kind through birth, death, marriage, divorce, removal or other continuing circumstance and the amount, if any, of such family member's income. Any such additions, other than birth, must be approved

by the HA in advance, and must qualify, the same as an applicant or any prospective new participant.

Employment, unemployment or changes in income for employment of a permanent nature of the family head, spouse, or other wage earner eighteen (18) years of age or older.

The starting of or stopping of, or an increase or decrease of any benefits or payments received by any member of the family or household from Old Age Pension, Aid for Dependent Children, Black Lung, Railroad Retirement, Private Pension Fund, Disability Compensation, Veterans Administration, Child Support, Alimony, Regular Contributions or Gifts. Lump sum payments or retroactive payments of benefits from any of the above sources which constitute the sum of monthly payments for a preceding period paid in a lump sum must be reported and rent adjusted retroactively on such income to date of eligibility for any family member residing in the household for that period of time.

Cost of living increases in Social Security or public assistance grants need not be reported until next re-examination and re-determination of rent.

Errors of omission made at admission or re-examination shall be corrected by the HA. Retroactive payments will be made to the participant if the error is in his/her favor.

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**If an error results in a retroactive rent payment due to the participant not providing correct information concerning annual income, the HCV participant must make repayment in accordance with the HA policy.**

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**A participant who has had a rent reduction/ increase after initial occupancy or after annual re-examination must report all changes in income within ten (10) calendar days regardless of the amount or source.**

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C. Notice of Temporary Rent:

On occasions, the HA is required to compute rent based on information that is supplied by the participant and third party information that has not or will not be provided by the employer. When this situation occurs the HA will compute a temporary rent based on the information available. Once the information is verified the participant will be notified in writing. If an underpayment was made, based on the information provided, the participant will have fourteen (14) days from the date of the HA notification to pay the amount specified. If the participant has made an overpayment, that amount will be credited to his/her account, with the landlord. The head of household and spouse (if applicable) and a HA representative signs this "Notice of Temporary Rent" and it is filed appropriately with a copy provided to the participant.

D. The Effective Dates of Interim Re-determination of Rent

- (a) Any decrease in rent resulting from any decreases in family income will be made effective the first of the month following the date the decrease in family income was reported and verified in writing.

The participant agrees to pay any increase in rent resulting from an increase in family income the first of the second month following the date in which such increase in family income occurred, and to pay any back rent due because of failure to report such increase in family income.

- a. Any interim change in rent will require verification.
- b. Participant agrees to pay any increase in rent resulting from the implementation of changes in rent computation or increases due to changes in regulations, policies, or procedures requiring implementation by the United States Department of Housing and Urban Development.
- c. Temporary employment/unemployment or increases and decreases in wages "for any reason" of less than 30 days will not constitute a rent adjustment.

Examples of how Temporary Employment and School Teacher

Employment may be calculated:

Example 1: Temporary Employment

Works different jobs at different pay rates.

Option #1: The PHA will use the last 6 pay stubs to anticipate annual income; or

Option #2: The PHA will use the last 12 month period of time to anticipate annual income.

Example 2: School Teacher

Works 9 months per year and gets paid 9 times per year \$1,000 per month.

Option #1: Calculate  $12 \times \$1,000 = \$12,000$  annually – conduct an interim and remove the income during the 3-month period of time not employed.

Option #2: Calculate  $9 \times \$1,000 = \$9,000$  annually and the family DOES NOT get an interim during the 3-month period of time not employed

- d. If it is found that a participant has misrepresented or failed to report facts upon which rent is based so that the participant is paying less than they should be paying, the increase in rent shall be made retroactive to the date the increase would have taken effect. The participant will be required to pay the difference between the rent paid and the amount that should have been paid. In addition, the participant may be subject to civil and criminal penalties. Misrepresentation is a serious program violation which may result in termination.

E. Special Re-examinations:

Special reexaminations are pre-scheduled extensions of admission or continued occupancy determinations, and will be considered for the following reasons:

- (a) If it is impossible to determine annual family income accurately due to instability of family income and/or family composition, a temporary determination of income and rent is to be made and a special re-examination shall be scheduled for thirty (30), sixty (60) or ninety (90) days, depending on circumstances. The participant shall be notified, in writing, of the date of the special re-examination.

If the family income can be anticipated at the scheduled time, the reexamination shall be completed and appropriate actions taken. If a reasonable anticipation of income cannot be made, another special re-examination shall be prescribed and the same procedure followed as stipulated in the preceding paragraph until a reasonable estimate can be made.

Rents determined at special re-examinations shall be made effective as noted above.

#### F. Minimum Rent Hardship Exemptions

- (a) The HA shall immediately grant an exemption from application of the minimum monthly rent to any family making a proper request in writing who is unable to pay because of financial hardship, which shall include:
  - a. The family has lost eligibility for, or is awaiting an eligibility determination from a federal, state, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the immigration and nationalization act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
  - b. The income of the family has decreased because of changed circumstance, including loss of employment.
  - c. A death in the family has occurred which affects the family circumstances.
  - d. Other circumstances which may be decided by the HA on a case by case basis.

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**All of the above must be proven by the participant providing verifiable information in writing to the HA prior to the rent becoming delinquent and before the lease is terminated by the owner.**

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If a family requests a financial hardship exemption, the HA must suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption until the HA determines whether there is a qualifying financial hardship, and whether such hardship is temporary or long term. The HA must promptly determine whether a qualifying hardship exists and whether it is temporary or long term. If the HA determines that a qualifying financial hardship is temporary, the HA must not impose the minimum rent during the 90-day period beginning the month following the date of the family's request for a hardship exemption. At the end of the 90-day suspension period, the HA must reinstate the minimum rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by the HA, for back rent owed by the family.

#### G. Reduction of Welfare Benefits:

If the HCV participant requests an income re-examination and the rent reduction is predicated on a reduction in participant income from welfare, the request will be denied, but only after obtaining written verification from the welfare agency that the family's benefits have been reduced because of:

- Noncompliance with economic self-sufficiency program or;
- Work activities requirements or;
- Because of fraud.

#### H. Exception to Rent Reductions:

Families whose welfare assistance is reduced specifically because of fraud or failure to participate in an economic self-sufficiency program or comply with a work activities requirement will not affect their HCV tenant-based assistance.

I. Family Share: (Family responsibility:

- (a) The family share is calculated by subtracting the amount of the housing assistance payment from the gross rent.

The HA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the family share. Payment of the family share is the responsibility of the family.

J. Family Income and Composition: (Regular and interim examinations)

1. HA responsibility for reexamination and verification

- a. The HA must obtain and document in the participant file third party The HA's responsibilities for reexamining family income and composition are specified in 24 CFR.
- b. verification of the following factors, or must document in the participant file why third party verification was not available:
  - (1) Reported family annual income;
  - (2) The value of assets;
  - (3) Expenses related to deductions from annual income; and
  - (4) Other factors that affect the determination of adjusted income.

2. When HA conducts interim reexamination

- a. At any time, the HA may conduct an interim reexamination of family income and composition.
- b. At any time, the family may request an interim determination of family income or composition because of any changes since the last determination. The HA must make the interim determination within a reasonable time after the family request.

3. Family Income Includes:

Income of all family members, including family members not related by blood or marriage. If any new family member is added, family income must include any income of the additional family member. The HA must conduct a reexamination to determine such additional income, and must make appropriate adjustments in the housing assistance payment and family unit size.

## **XXII. Termination of Assistance**

A. Reasons for Termination:

- (a) Owes rent, other amounts, or judgments to any HA or any other federally subsidized housing program, the applicant will be declared ineligible. At the HA's discretion, the applicant may be declared eligible upon payment of the debt, with the date and time of application being the time of payment and meeting other criteria.

The family, including each family member, must not:

- a. Have violated any Family obligation listed on the voucher.
- b. Engage in drug-related criminal activity or violent criminal activity, including criminal activity by the Family member, 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. (Reference 24 CFR 982).

- c. Breach a repayment agreement to the HA and/or owner.
- d. Commit acts which would constitute fraud.
- e. Fail to provide information required within the time frame specified (the applicable dates are contained in the letters from the HA to the applicant) during the reexamination process.

The HA shall terminate assistance of a family, if the participant, or any member of the participant's family does not sign and submit consent forms that are provided by the HA for verifying employment and income information.

The participant family must have properly completed all application requirements, including verifications. Misrepresentation of income, family composition, or any other information affecting continued eligibility may result in the family being declared ineligible and assistance may be terminated for such misrepresentation.

The participant and all adults must sign a release allowing the HA to request a copy of a police report from the National Crime Information Center, Police Department or other Law Enforcement Agencies. The participant and all adults further agree to provide fingerprints if requested. If the HA uses the information to terminate assistance the HA must provide a copy of the information used upon proper request.

If the HA determines that a person is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The HA may waive this requirement if:

- a. The person demonstrates to the HA's satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
- b. Has successfully completed a supervised drug or alcohol rehabilitation program;
- c. Has otherwise been rehabilitated successfully; or
- d. Is participating in a supervised drug or alcohol rehabilitation program.

If any household includes an individual who is subject to a lifetime registration requirement under a state sex offender registration program.

#### B. Notification of Termination:

If a participant is terminated, the HA will notify the participant, in writing, of its determination and inform them that they have an opportunity for an informal hearing on such determination. The denial letter will allow the participant ten (10) calendar days to request an informal hearing (in writing) with the HA. (Section XXXIX).

### **XXIII. Termination of Assistance Due to Lack of Adequate Funding**

#### A. Background

HA's are prohibited from assisting families over either its annual baseline number of Housing Choice Vouchers per its approved Annual Contributions Contract (ACC) with HUD or its Housing Assistance Payments (HAP) Budget Authority from HUD. In the event that the HA's HAP Budget Authority will no longer support the number of families currently participating in the program, HA shall determine the number of families that must be terminated from assistance due to the lack of adequate funding from HUD.



**B. Excluded Families**

A Family in any of the following categories shall be excluded to the extent possible, from any termination of assistance due to lack of funding from HUD:

- (a) Elderly Family,  
Disabled Family, or  
Any Family that is under an agreement in the Homeownership program.

**C. Options to Address Insufficient Funding**

- (a) Terminate HAP contracts - HA may terminate HAP contracts based on one of the following Options:

**THE HA HAS SELECTED THE FOLLOWING OPTIONS AS THE FHA CHOICES.**

<input type="checkbox"/>	Option 1	Terminate HAP contracts for non-disabled, non-elderly and non-homeownership families who the Authority pays a housing assistance payment on their behalf of \$100.00 or less. The order of contract termination will be to families receiving the least amount in HAP assistance first until the shortfall is covered to the satisfaction of the Authority.  If these terminations are not sufficient the HA will go to. <input type="checkbox"/> Option 2, <input type="checkbox"/> Option 3, <input type="checkbox"/> Option 4 or <input type="checkbox"/> Option 5 until the shortfall in funding is covered.
<input checked="" type="checkbox"/>	Option 2	Terminate HAP contracts for non-disabled, non-elderly and non-homeownership households that have been on the program the longest. HA shall terminate a family based upon their date of admittance to the program. For this purpose, HA shall consider the family's original lease date under HA's Housing Choice Voucher Program to be their date of admittance to the HCVP. The family that was first admitted to the program, according to their original lease date, shall be the first to have assistance terminated due to the lack of adequate funding from HUD. First, to be terminated will be households consisting of single individuals. Second, to be terminated will be households consisting of multiple family members without dependents under the age of eighteen. Finally, after the terminations above have been made and HA determines that additional cuts have to be made, then families with dependents under the age of eighteen will be terminated on a first in-first out method described above. Terminations shall be made until HA determines a sufficient number of families have been terminated to allow HA to have sufficient funding to support families in the program. Priority status shall be determined as of the date of the Executive Director certifies that insufficient funding exists. HUD approval is required prior to termination of any contracts for insufficient funding.
<input type="checkbox"/>	Option 3	Terminate HAP contracts for non-disabled, non-elderly and non-homeownership households that have been on the program the shortest. HA shall terminate a family based upon their date of admittance to the program. For this purpose, HA shall consider the family's original lease date under HA's Housing Choice Voucher Program to be their date of admittance to the HCVP. The family that was last admitted to the program, according to their original lease date, shall be the first to have assistance terminated due to the lack of adequate funding from HUD. First, to be terminated will be households consisting of single individuals. Second, to be terminated will be households consisting of multiple family members without dependents under the age of eighteen. Finally, after the terminations



		above have been made and HA determines that additional cuts have to be made, then families with dependents under the age of eighteen will be terminated on a last in-first out method described above. Terminations shall be made until HA determines a sufficient number of families have been terminated to allow HA to have sufficient funding to support families in the program. Priority status shall be determined as of the date of the Executive Director certifies that insufficient funding exists. HUD approval is required prior to termination of any contracts for insufficient funding.
<input type="checkbox"/>	Option 4	Terminate all non-disabled, non-elderly and non-homeownership households for one month and reinstate those terminated the next month. (Terminate all non-disabled, non-elderly and non-homeownership households for one month in the order stated in <input type="checkbox"/> Option 1, <input type="checkbox"/> Option 2, <input type="checkbox"/> Option 3, or <input type="checkbox"/> Option 5 until the shortfall in funding is covered.)
<input type="checkbox"/>	Option 5	Terminate all non-disabled, non-elderly and non-homeownership households by lottery
<input type="checkbox"/>	Option 6	Other

#### Resumption of Terminated Subsidies

<input type="checkbox"/>	Option A  1 <sup>st</sup> off 1 <sup>st</sup> on	HA will automatically add terminated families to the top of the waiting list according to their termination date. The families will be added regardless of whether the waiting list is open or closed. If and when subsidy is restored, HA will issue vouchers to the terminated families (must be income eligible at time of re-admission) before issuing to non terminated families on the waiting list.
<input checked="" type="checkbox"/>	Option B  Last off 1 <sup>st</sup> on	HA will automatically add terminated families to the top of the waiting list according to their termination date in reverse order. The families will be added regardless of whether the waiting list is open or closed. If and when subsidy is restored, HA will issue vouchers to the terminated families in reverse order according to their termination date (must be income eligible at time of re-admission) before issuing to non terminated families on the waiting list.

## XXIV. Establishing Payment Standards

### A. Fair Market Rents (FMRs):

FMRs are published by HUD. The FMR/exception rent limit is used to determine the payment standards.

### B. Payment Standard:

The payment standard must be between 90% and 110% of the FMR/exception rent limit and is the maximum subsidy for a family. However, HUD may approve an exception rent limit of less than 90% percent of the current FMR.

C. Payment Standard Limit:

The HA may approve a payment standard of not more than 120 percent of the FMR without HUD approval if requested as a reasonable accommodation by a family that includes a person with a disability.

## **XXV. AFFORDABILITY ADJUSTMENTS to PAYMENT STANDARDS**

The HA, in its discretion, may adopt annual increases of payment standards amounts on the payment standard schedule so that families can continue to afford to lease units with assistance. In determining when an adjustment to the payment is necessary the HA will consider,

- The financial utilization of funding provided and the number of families that can be served.
- Rent burden (number of families paying more than 30% of income for rent, if more than 20 %, the HA may adjust the payment standard),
- Success rate in leasing (if less than 40% the HA may adjust the payment standard) and
- Percentage of FMR (if payment standard is not within 10% of the FMR, either higher or lower, the HA must adjust the payment standard).

## **XXVI. UTILITY ALLOWANCES**

### **A. Utility Allowance Schedule**

#### **1. Maintaining schedule:**

- a. The HA must maintain a utility allowance schedule for all participant paid utilities (except telephone), for cost of participant supplied refrigerators and ranges, and for other participant paid housing services (e.g., trash collection, disposal of waste, and refuse).
- b. The HA must give HUD a copy of the utility allowance schedule. At HUD's request, the HA also must provide any information or procedures used in preparation of the schedule.

#### **2. How allowances are determined**

- a. 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 HA must use normal patterns of consumption for the community as a whole and current utility rates.
- b. The HA's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards. However, the HA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.
- c. In the utility allowance schedule, the HA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection (disposal of waste and refuse); other electric; refrigerator (cost of participant supplied refrigerator); range (cost of participant supplied range); and other specified housing services. The HA must provide a utility allowance for participant paid

air conditioning costs if the majority of housing units in the market provide centrally air-conditioned units or there is appropriate wiring for participant installed air conditioners.

- d. The cost of each utility and housing service category must be stated separately. For each of these categories, the utility allowance schedule must take into consideration unit size (by number of bedrooms), and unit types (e.g., apartment, row house, town house, single-family detached, and manufactured housing) that are typical in the community.
- e. The utility allowance schedule must be prepared and submitted in accordance with HUD requirements on the form prescribed by HUD.

3. Revisions of utility allowance schedule.

- a. A HA 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% or more in the utility rate since the last time the utility allowance schedule was revised. The HA must maintain information supporting its annual review of utility allowances and any revisions made in its utility allowance schedule.
- b. At HUD's direction, the HA must revise the utility allowance schedule to correct any errors, or as necessary to update the schedule.

4. Use of utility allowance schedule

- a. The HA must use the appropriate utility allowance for the size of dwelling unit actually leased by the family (rather than the family unit size as determined under the HA subsidy standards).
- b. At reexamination, the HA must use the HA current utility allowance schedule.

5. Reasonable accommodation:

On request from a family that includes a person with disabilities, the HA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

## **XXVII. Adjustment to Contract Rents**

A. Contract Rents:

The rent to owner may not be increased during the first year of the lease. The lease may provide that the owner may increase the rent at any time after the first anniversary of the lease, but the owner must give the tenant and the HA 60 day's written notice of any increase before it takes effect.

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**The owner may increase the family's rent at any time after the initial term of the lease, subject to the HA's approval based on rent reasonableness, with a 60 days written notice to the family and the HA.**

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B. Overall Limitation of Adjustments:

Notwithstanding any other provisions of this part, adjustments as provided for in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units (rent reasonableness).

## **XXVIII. Absence from the Assisted Unit**

Absence means that no member of the family is residing in the unit. Families participating in the program may be absent for a period of 14 calendar days without notifying the HA (see voucher, obligations of the family). If the family anticipates being absent for more than 14 consecutive calendar days, the Head of Household must request written permission from the HA prior to leaving the assisted unit. The HA may approve absences in excess of 14 consecutive calendar days for vacation, hospitalization or other good cause as presented to the HA by head of household. The HA will respond in writing within 10 calendar days of the receipt of the request for approved absence. The HA will not approve any request for absence for a period of more than 180 consecutive calendar days in any circumstance, or for any reason.

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**If emergencies exist, such as hospitalization, the head of household must notify the HA by telephone as soon as possible and request a determination via the telephone. Verbal request for determination may only be made in emergencies. The HA will respond verbally and follow-up its verbal determination in writing within ten calendar days of the verbal request.**

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## **XXIX. Continued Assistance after Family Break-Up**

The HA shall determine which family members will continue to receive assistance after a documented family break-up. The head of household, spouse or any adult member of the household must notify the HA that there has been a family break-up and continued assistance is being requested. The assisted family member making the request must submit the request in writing to the HA and request a determination. The request must be made within 10 calendar days of the break-up. The HA will consider the following factors in making this determination:

- (a) Assisted Unit: Whether the assistance should remain with family members remaining in the original assisted unit.

Interest of Family Members: The interest of minor children or of ill, elderly, or disabled family members.

Physical Violence: Whether family members are forced to leave the unit because of actual or threatened physical violence against family members by a spouse or other member of the household.

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**The HA will issue a determination within 10 calendar days of receipt of the request for a determination. The person requesting the determination may request an Informal Hearing in accordance with the HA established procedures if they disagree with the determination of the HA.**

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

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### **XXX. Termination of Tenancy by Owner**

#### **A. Reasons for Termination:**

The Owner shall not terminate the tenancy of the Family except for:

(a) Serious or repeated violation of the terms and conditions of the Lease; Criminal Activity by the participant, any member of the household, a guest, or another person under the participant's control shall be cause for termination of tenancy. Criminal activity is defined as, criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or by persons residing in the immediate vicinity of the premises.

Violation of Federal, State or local law that imposes obligations on the participant in connection with the occupancy or use of the premises; or

Other good cause, which may include, but not be limited to: failure by the family to accept the offer of a new lease or revision; a family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or premises; 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, desire to lease the unit at a higher rental). If the owner terminates the tenancy for a business or economic reason the owner must provide the tenant with a 90 day notice.

#### **B. Eviction by Court Action:**

The Owner may evict the Family from the Contract unit only by instituting a court action. The Owner must notify the HA, in writing, of the commencement of procedures for termination of tenancy, at the same time that the Owner gives notice to the Family under State law.

#### **C. Written Notice:**

Owners must provide written notice of not less than 90 days before termination of a tenant-based housing assistance payment (HAP) contract and not less than 1 year before termination of a project-based HAP contract because of an owner opt-out or expiration of the HAP contract. Copies of these notices must be provided to the HA.

#### **D. Termination during Initial Term of the Lease:**

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. For example, during this period, the owner may not terminate the tenancy for "other good cause", based on any of the following grounds: 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 tenancy (See above).

### **XXXI. Termination of Housing Assistance Payment (Hap) Contract**

#### **A. When the Unit is too Big or too Small:**

If the HA 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 HA must issue the family a new voucher, and the family and HA must try to find an acceptable unit as soon as possible.

**B. Breach of Contract:**

Termination of HAP contract for owner breach of contract. Breaches of the contract are outlined in the contract.

**C. Automatic Termination of HAP Contract:**

The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

**XXXII. Program Management Plan - Organization Plan**

**A. Executive Director:**

Responsible for all aspects of the HCV Programs: The Assistant Executive Director/Comptroller is the supervisor of the HCV Coordinator. Where there is no Assistant Executive or Comptroller, the Executive Director is the supervisor for the HCV Coordinator.

**B. HCV Coordinator:**

The HCV Coordinator is responsible for the day-to-day operations of the HCV Programs. Some of the major duties are: takes applications, signs vouchers, handles public relations with concerned agencies and landlords, performs inspections (including the 5 percent supervisory inspections), performs certifications and re-certifications of participants, makes decisions regarding termination of assistance, and prepares various HCV reports. Issues all HCV checks, including those for Portabilities, and prepares all HCV Financial Reports.

**C. Portability Intake Specialist:**

The Portability Intake Specialist is responsible for the day-to-day operations of the families on the HCV Program who are transferring to or from our HA under the Portability option. He/she also serves as the backup for the HCV Coordinator and performs a portion of the duties of the HCV Coordinator as needed.

**D. Inspector:**

Various HA staff perform HCV Inspections for the HCV program and under the direction and training of the HCV Coordinator and/or of the Executive Director.

**XXXIII. HUD Review of Contract Compliance**

HUD will review program operations at such intervals as it deems necessary to insure that the owner and the HA are in full compliance with the terms and conditions of the contract and the ACC. Equal opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

#### **XXXIV. Administrative Fee Reserve Expenditures**

Expenditures from the administrative fee reserve of the HCV programs in excess of \$2,500.00 will be approved by the board of commissioners of the HA.

#### **XXXV. Special Housing Types**

##### **The PHA must select one of the following**

<input checked="" type="checkbox"/>	This Housing Authority has elected not to permit use of any of SRO's, Congregate housing, Group homes, Shared housing and Cooperative housing types in its program unless a special housing type is needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8
<input type="checkbox"/>	This Housing Authority has elected to permit the use of Special Housing Types as below:

##### **A. Overview:**

##### **1. Special housing types:**

This subpart describes program requirements for special housing types. The following are the special housing types:

- a. Single room occupancy (SRO) housing;
- b. Congregate housing;
- c. Group home;
- d. Shared housing;
- e. Cooperative (including mutual housing);
- f. Manufactured home.

##### **2. HA choice to offer special housing type:**

- a. The HA may permit a family to use any of the following special housing types in accordance with requirements of the program: single room occupancy housing, congregate housing, group home, shared housing, or cooperative housing.
- b. In general, the HA is not required to permit use of any of these special housing types in its program.
- c. The HA must 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 in accordance with 24 CFR part8.
- d. For occupancy of a manufactured home, see Sec. 982.620(a).

##### **3. Family choice of housing and housing type:**

The HA may not set aside program funding for special housing types, or for a specific special housing type. The family chooses whether to rent housing that qualifies as a special housing type under this subpart, or as any specific special housing type, or to rent other eligible housing in accordance with requirements of the program. The HA may not restrict the family's freedom to choose among available units in accordance with Sec. 982.353.



4. Applicability of requirements:

Except as modified by this subpart, requirements in the other subparts of this part apply to the special housing types. Provisions in this subpart only apply to a specific special housing type. The housing type is noted in the title of each section.

B. Single Room Occupancy (SRO):

1. SRO: General. Sec. 982.602

- a. Who may reside in an SRO. A single person may reside in an SRO housing unit.
- b. When may a person rent an SRO housing unit. A single person may rent a unit in SRO housing only if:
  - (1) HUD determines there is significant demand for SRO units in the area;
  - (2) The HA and the unit of general local government approve providing assistance for SRO housing under the program; and (3) The unit of general local government and the HA certify to HUD that the property meets applicable local health and safety standards for SRO housing.

2. SRO: Lease and HAP contract. Sec. 982.603

For SRO housing, there is a separate lease and HAP contract for each assisted person.

3. SRO: Rent and housing assistance payment. Sec. 982.604

- a. Payment standard: The HA must adopt a payment standard for persons who occupy SRO housing with assistance under the voucher program. The SRO payment standard may not exceed the FMR/exception rent limit for SRO housing. While an assisted person resides in SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.
- b. Utility allowance: The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

4. SRO: Housing quality standards. Sec. 982.605

- a. HQS standards for SRO: The HQS in Sec. 982.401 apply to SRO housing. However, the standards in this section apply in place of Sec. 982.401. (Sanitary facilities), Sec. 982.401(c) (food preparation and refuse disposal), and Sec. 982.401(d) (space and security): Since the SRO units will not house children, the housing quality standards in Sec. 982.401(j), concerning lead based paint, do not apply to SRO housing.
- b. Performance requirements:
  - (1) SRO housing is subject to the additional performance requirements in this paragraph (b).
  - (2) Sanitary facilities and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:
    - (a) Sanitary facilities.

- i. At least one flush toilet that can be used in privacy, lavatory basin, and bathtub or shower, in proper operating condition, must be supplied for each six persons or fewer residing in the SRO housing.
- ii. If SRO units are leased only to males, flush urinals may be substituted for not more than one-half the required number of flush toilets. However, there must be at least one flush toilet in the building.
- iii. Every lavatory basin and bathtub or shower must be supplied at all times with an adequate quantity of hot and cold running water.
- iv. All of these facilities must be in proper operating condition, and must be adequate for personal cleanliness and the disposal of human waste. The facilities must utilize an approvable public or private disposal system.
- v. Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them. These facilities may not be located more than one floor above or below the SRO unit. Sanitary facilities may not be located below grade unless the SRO units are located on that level.

(b) Space and security:

- vi. No more than one person may reside in-an SRO unit.
- vii. An SRO unit must contain at least one hundred ten square feet of floor space.
- viii. An SRO unit must contain at least four square feet of closet space for each resident (with an unobstructed height of at least five feet). If there is less closet space, space equal to the amount of the deficiency must be subtracted from the area of the habitable room space when determining the amount of floor space [[Page 23866]] in the SRO unit. The SRO unit must contain at least one hundred ten square feet of remaining floor space after subtracting the amount of the deficiency in minimum closet space.
- ix. Exterior doors and windows accessible from outside an SRO unit must be lockable.

c. Access:

- (1) Access doors to an SRO unit must have locks for privacy in proper operating condition.
- (2) An SRO unit must have immediate access to two or more approved means of exit, appropriately marked, leading to safe and open space at ground level, and any means of exit required by State and local law.
- (3) The resident must be able to access an SRO unit without passing through any other unit.

- d. Sprinkler system: A sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as State or local law may require must be installed in each building. The term “major spaces” means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

### C. Congregate Housing

#### 1. Who May Reside in Congregate Housing Sec. 982.606

An elderly person or a person with disabilities may reside in a congregate housing unit.

- (a) If approved by the HA, a family member or live-in aide may reside with the elderly person or person with disabilities.
- (b) The HA 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 in accordance with 24 CFR part 8. See Sec. 982.316 concerning occupancy by a live-in aide.

#### 2. Lease and HAP Contract Sec. 982.607

For congregate housing, there is a separate lease and HAP contract for each assisted family.

#### 3. Rent and housing assistance payment; FMR/exception rent limit Sec. 982.608

- a. Unless there is a live-in aide:
  - (1) The FMR/exception rent limit for a family that resides in a congregate housing unit is the zero bedroom FMR/exception rent limit.
  - (2) However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the FMR/exception rent limit for a family that resides in a congregate housing unit is the one bedroom FMR/exception rent limit.
- b. If there is a live-in aide, the live-in aide must be counted in determining the family unit size.

#### 4. Housing quality standards Sec. 982.609

- a. HQS standards for congregate housing. The HQS in Sec. 982.401 apply to congregate housing. However, the standards in this section apply in place of Sec. 982.401(c) (food preparation and refuse disposal). Congregate housing is not subject to the HQS acceptability requirement in Sec. 982.401(d)(2)(i) that the dwelling unit must have a kitchen area.
- b. Food preparation and refuse disposal: Additional performance requirements. The following additional performance requirements apply to congregate housing:
  - (1) The unit must contain a refrigerator of appropriate size.
  - (2) There must be central kitchen and dining facilities on the premises. These facilities:
    - (a) Must be located within the premises, and accessible to the residents;
    - (b) Must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner;
    - (c) Must be used to provide a food service that is provided for the residents and that is not provided by the residents; and

- (d) Must be for the primary use of residents of the congregate units and be sufficient in size to accommodate the residents.
- (3) There must be adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

#### D. Group Home

##### 1. Who may reside in a group home Sec. 982.610

- a. An elderly person or a person with disabilities may reside in a State-approved group home.
- b. If approved by the HA, a live-in aide may reside with a person with disabilities.

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**The HA 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 in accordance with 24 CFR part 8. See Sec. 982.316 concerning occupancy by a live-in aide.**

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- c. Except for a live-in aide, all residents of a group home, whether assisted or unassisted, must be elderly persons or persons with disabilities.
- d. Persons residing in a group home must not require continual medical or nursing care.
- e. Persons who are not assisted under the tenant based program may reside in a group home.
- f. No more than 12 persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

##### 2. Lease and HAP contract Sec. 982.611

For assistance in a group home, there is a separate HAP contract and lease for each assisted person.

##### 3. State approval of group home Sec. 982.612

A group home must be licensed, certified, or otherwise approved in writing by the State (e.g., Department of Human Resources, Mental Health, Retardation, or Social Services) as a group home for elderly persons or persons with disabilities.

##### 4. Rent and housing assistance payment Sec. 982.613

- a. Meaning of pro-rata portion: For a group home, the term “pro-rata portion,” means the ratio derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals’ one assisted person plus any HA-approved live-in aide.
- b. Rent to owner: Reasonable rent limit.
  - (1) The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.
  - (2) The reasonable rent for a group home is determined in accordance with Sec. 982.503. In determining reasonable rent for the group home, the HA must consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private facilities.

c. Maximum Subsidy:

(1) Family unit size.

- (a) Unless there is a live-in aide, the family unit size is zero or one bedroom.
- (b) If there is a live-in aide, the live-in aide must be counted in determining the family unit size.

(2) Voucher tenancy: The payment standard for a person who resides in a group home is the lower of:

- (a) The payment standard for the family unit size; or
- (b) The pro-rata portion of the payment standard for the group home size.

(3) Over-FMR tenancy: Payment standard. For an over-FMR tenancy, the payment standard for a person who resides in a group home is the lower of:

- (a) The FMR/exception rent limit for the family unit size; or
- (b) The pro-rata portion of the FMR/exception rent limit for the group home size.

5. Utility allowance:

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

6. Housing quality standards Sec. 982.614

a. Compliance with HQS: The HA may not give approval to reside in a group home unless the unit, including the portion of the unit available for use by the assisted person under the lease, meets the housing quality standards.

b. Applicable HQS standards:

- (1) The HQS in Sec. 982.401 apply to assistance in a group home. However, the standards in this section apply in place of Sec. 982.401(b) (sanitary facilities), Sec. 982.401(c) (food preparation and refuse disposal), Sec. 982.401(d)(space and security), Sec. 982.401(g) (structure and materials) and Sec. 982.401(l) (site and neighborhood).

- (2) The entire unit must comply with the HQS.

c. Additional performance requirements: The following additional performance requirements apply to a group home:

(1) Sanitary facilities.

- (a) There must be a bathroom in the unit. The unit must contain, and an assisted resident must have ready access to:

- i. A flush toilet that can be used in privacy;
- ii. A fixed basin with hot and cold running water; and
- iii. A shower or bathtub with hot and cold running water.

- (b) All of these facilities must be in proper operating condition, and must be adequate for personal cleanliness and the disposal of human waste. The facilities must utilize an approvable public or private disposal system.

- (c) The unit may contain private or common sanitary facilities. However, the facilities must be sufficient in number so that they need not be shared by more than four residents of the group home.

- (d) Sanitary facilities in the group home must be readily accessible to and usable by residents, including persons with disabilities.

(2) Food preparation and service.

- (a) The unit must contain a kitchen and a dining area. There must be adequate space to store, prepare, and serve foods in a sanitary manner.
  - (b) Food preparation and service equipment must be in proper operating condition. The equipment must be adequate for the number of residents in the group home. The unit must contain the following equipment:
    - i. A stove or range, and oven;
    - ii. A refrigerator; and
    - iii. A kitchen sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
  - (c) There must be adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.
  - (d) The unit may contain private or common facilities for food preparation and service.
- (3) Space and security.
- (a) The unit must provide adequate space and security for the assisted person.
  - (b) The unit must contain a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space. The unit must contain at least one bedroom of appropriate size for each two persons.
  - (c) Doors and windows that are accessible from outside the unit must be lockable.
- (4) Structure and material.
- (a) The unit must be structurally sound to avoid any threat to the health and safety of the residents, and to protect the residents from the environment.
  - (b) Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other significant damage. The roof structure must be firm, and the roof must be watertight. The exterior or wall structure and exterior wall surface may not have any serious defects such as serious leaning, buckling, sagging, cracks or large holes, loose siding, or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., must not present a danger of tripping or falling. Elevators must be maintained in safe operating condition.
  - (c) The group home must be accessible to and usable by a resident with disabilities.
- (5) Site and neighborhood:
- The site and neighborhood must be reasonably free from disturbing noises and reverberations and other hazards to the health, safety, and general welfare of the residents. The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps, instability, flooding, poor drainage, septic tank

back-ups, sewage hazards or mud slides, abnormal air pollution, smoke or dust, excessive noise, vibrations or vehicular traffic, excessive accumulations of trash, vermin or rodent infestation, or fire hazards. The unit must be located in a residential setting.

#### E. Shared Housing

##### 1. Shared housing: Occupancy Sec. 982.615

- a. Sharing a unit: An assisted family may reside in shared housing. In shared housing, an assisted family shares a unit with the other resident or residents of the unit. The unit may be a house or an apartment.
- b. Who may share a dwelling unit with assisted family.
  - (1) If approved by the HA, a live-in aide may reside with the family to care for a person with disabilities. The HA 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 in accordance with 24 CFR part 8. See Sec. 982.316 concerning occupancy by a live-in-aide.
  - (2) The persons who are assisted under the tenant based program, or other persons who are not assisted under the tenant based program, may reside in a shared housing unit.
  - (3) The owner of a shared housing unit may reside in the unit. A resident owner may enter into a HAP contract with the HA. However, housing assistance may not be paid on behalf of an owner. An assisted person may not be related by blood or marriage to a resident owner.

##### 2. Lease and HAP contract Sec. 982.616

For assistance in a shared housing unit, there is a separate HAP contract and lease for each assisted family.

##### 3. Rent and housing assistance payment Sec. 982.617

- a. Meaning of pro-rata portion: For shared housing, the term “pro-rata portion,” means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.
- b. Rent to owner: Reasonable rent.
  - (1) The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit.
  - (2) The reasonable rent is determined in accordance with Sec. 982.503.
- c. Maximum subsidy:
  - (1) Voucher Tenancy: The payment standard is the lower of:
    - (a) The payment standard for the family unit size; or
    - (b) The pro-rata portion of the payment standard for the shared housing unit size.
  - (2) Live-in aide. If there is a live-in aide, the live-in aide must be counted in determining the family unit size.



- d. Utility allowance: The utility allowance for an assisted family residing in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.
- 4. Housing quality standards Sec. 982.618
  - a. Compliance with HQS: The HA 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.
  - b. Applicable HQS standards: The HQS in Sec. 982.401 apply to assistance in shared housing. However, the HQS standards in this section apply in place of Sec. 982.401(d) (space and security).
  - c. Facilities available for family: The facilities available for the use of an assisted family in shared housing under the family's lease must include (whether in the family's private space or in the common space) a living room, sanitary facilities in accordance with Sec. 982.401(b), and food preparation and refuse disposal facilities in accordance with Sec. 982.401(c).
  - d. Space and security: Performance requirements.
    - (3) The entire unit must provide adequate space and security for all its residents (whether assisted or unassisted).
    - (4) Each unit must contain private space for each assisted family, plus common space for shared use by the residents of the unit. Common space must be appropriate for shared use by the residents.
      - (a) 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 may not be less than the family unit size.
      - (b) A zero or one bedroom unit may not be used for shared housing.

F. Cooperative Housing. Sec. 982.619

- 1. When cooperative housing may be used:

A family may reside in cooperative housing if the HA determines that:

  - a. Assistance under the program will help maintain affordability of the cooperative unit for low-income families; and
  - b. The cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).
- 2. Rent to owner.
  - a. The reasonable rent for a cooperative unit is determined in accordance with Sec. 982.503. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.
  - b. The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. The carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge

does not include down payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose.

- c. Gross rent is the carrying charge plus any utility allowance.
- d. The occupancy agreement/lease and other appropriate documents must provide that the monthly carrying charge is subject to HCV limitations on rent to owner.

3. Housing assistance payment:

The amount of the housing assistance payment is determined in accordance with subpart K of this part.

4. Live-in aide:

- a. If approved by the HA, a live-in aide may reside with the family to care for a person with disabilities. The HA 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 in accordance with 24 CFR part 8. See Sec. 982.316 concerning occupancy by a live-in aide.
- b. If there is a live-in aide, the live-in aide must be counted in determining the family unit size.

G. Manufactured Home

1. Applicability of requirements Sec. 982.620

- a. Assistance for resident of manufactured home:
  - (1) A family may reside in a manufactured home with assistance under the program.
  - (2) The HA must permit a family to lease a manufactured home and space with assistance under the program.
  - (3) The HA may provide assistance for a family that owns the manufactured home and leases only the space. The HA is not required to provide such assistance under the program.
- b. Applicability:
  - (1) The HQS in Sec. 982.621 always apply when assistance is provided to a family occupying a manufactured home (under paragraph (a) (2) or (a) (3) of this section).
  - (2) Sections 982.622 to 982.624 only apply when assistance is provided to a manufactured home owner to lease a manufactured home space.
- c. Live-in aide:
  - (1) If approved by the HA, a live-in aide may reside with the family to care for a person with disabilities. The HA 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 in accordance with 24 CFR part 8. See Sec. 982.316 concerning occupancy by a live-in aide.
  - (2) If there is a live-in aide, the live-in aide must be counted in determining the family unit size.

2. Housing quality standards Sec. 982.621

A manufactured home must meet all the HQS performance requirements and acceptability criteria in Sec. 982.401. A manufactured home also must meet the following requirements:

- a. Performance requirement: A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage.
  - b. Acceptability criteria: A manufactured home must be securely anchored by a tie down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.
3. Space Rental: Rent to owner Sec. 982.622
- a. What is included:
    - (1) Rent to owner for rental of a manufactured home space includes payment for maintenance and services that the owner must provide to the participant under the lease for the space.
    - (2) Rent to owner does not include the costs of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.
  - b. Reasonable rent.
    - (1) During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined in accordance with this section. Section 982.503 is not applicable.
    - (2) The HA may not approve a lease for a manufactured home space until the HA determines that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the HA must redetermine that the current rent to owner is a reasonable rent.
    - (3) The HA must determine whether the rent to owner for the manufactured home space is a reasonable rent in comparison to rent for other comparable manufactured home spaces. To make this determination, the HA must consider the location and size of the space, and any services and maintenance to be provided by the owner in accordance with the lease (without a fee in addition to the rent).
    - (4) By accepting each monthly housing assistance payment from the HA, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park or elsewhere. The owner must give the HA information, as requested by the HA, on rents charged by the owner for other manufactured home spaces.
4. Space rental: Housing assistance payment Sec. 982.623
- a. Fair market rent: The FMR for a manufactured home space is determined in accordance with 24 CFR 888.113(e). Exception rents do not apply to rental of a manufactured home space.
  - b. Housing assistance payment:
    - (1) Payment standard: The payment standard is used to calculate the monthly housing assistance payment for a family. The payment standard for a family renting a manufactured home space is the published FMR for rental of a manufactured home space. The amount of the payment standard is determined in accordance with Sec. 982.505(d) (4) and (d) (5).
    - (2) Subsidy calculation: The amount of the monthly housing assistance payment for a family equals the lesser of paragraphs (c)(2)(I) or (c)(2)(ii) of this section:

- (a) Amount obtained by subtracting 30 percent of the family's monthly adjusted gross income from the sum of:
      - i. The amortization cost;
      - ii. The utility allowance; and
      - iii. The payment standard.
    - (b) The monthly gross rent for the manufactured home space minus the minimum rent. The minimum rent is the higher of:
      - i. 10 percent of monthly income (gross income); or
      - ii. A higher minimum rent as required by law.
  - c. Amortization cost:
    - (1) The amortization cost may include debt service to amortize costs (other than furniture costs) included in the purchase price of the manufactured home. The debt service includes the payment for principal and interest on the loan. The debt service amount must be reduced by 15 percent to exclude debt service to amortize the cost of furniture, unless the HA determines that furniture was not included in the purchase price.
    - (2) The amount of the amortization cost is the debt service established at time of application to a lender for financing purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home is not included in the amortization cost.
    - (3) Debt service for set-up charges incurred by a family that relocates its home may be included in the monthly amortization payment made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize such charges.
  - d. Annual income: In determining a family's annual income, the value of equity in the manufactured home owned by the assisted family, and in which the family resides, is not counted as a family asset.
- 5. Space Rental Utility allowance schedule. Sec. 982.624  
 The HA must establish utility allowances for manufactured home space rental. For the first twelve months of the initial lease term only, the allowances must include a reasonable amount for utility hook-up charges payable by the family if the family actually incurs the expenses because of a move. Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place. Utility allowances for manufactured home space must not cover costs payable by a family to cover the digging of a well or installation of a septic system.

## XXXVI.

### Family Self-Sufficiency Programs

The purpose of the family self-sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of public housing assistance and assistance under the HCV rental program with public and private resources, to enable families eligible to receive assistance under these programs, and to achieve economic independence and self-sufficiency.

This HA has developed an action plan and policy and procedures to implement the requirements of this program. A copy of this plan, policy, and procedure is attached to this document and is incorporated by reference as if fully set out herein. The FSS plan includes the following.

A. Eligible FSS Participants:

Description of how current HCV participants (Families currently receiving HCV assistance are the only families eligible to participate in the FSS program) will be selected to participate in the FSS program; (Reference Action Plan and Policy and Procedures to Implement the FSS Program for specific guidelines on selecting participants for the FSS program). The basis of the selection criteria is listed below:

- (a) Fifty (50) percent of the HA's slots will be allocated to HCV participants with one or more family members currently enrolled in, or on the waiting list for, one or more FSS related service programs such as Job Opportunities and Basic Skills Training (JOBS) and/or Job Training Partnership Act (JTPA).

The remaining fifty (50) percent of the HA's slots will be filled based on the date and time a family expresses interest in the FSS program. The HA will notify each HCV participant of the availability of the FSS program, in writing, and inform the families that eligibility for participation will be based on the date and time the HA is contacted by the family and an interest is expressed in the program.

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**The HA will keep records for a period of not less than three years, which documents how families were selected for participation in the FSS program.**

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B. Termination of FSS:

If the FSS participant under reports income and assets, the HCV assistance can be terminated and/or the family can be terminated for the FSS program. In either case the HA will not credit the family's escrow account with any portion of the back rent.

- (a) Description of how HCV assistance is terminated and/or how FSS supportive services are withheld for violations of FSS obligations. HCV assistance is terminated in accordance with Section XI of this document. If a Family fails to meet its FSS obligations as outlined in the FSS contract of participation the family can be terminated from the FSS program. The family may lose HCV assistance if they are terminated from the FSS program. The HA is never required to terminate HCV assistance as a consequence of termination of the FSS contract.

If a family was selected to participate in the FSS program and was terminated because they did not meet its FSS obligations the family may be denied the opportunity to participant in the FSS program the second time based on the fact that they violated FSS obligation the first time the family participated in the FSS program. A family may also be denied the opportunity to participate in the FSS program if they owe funds to a HA.

If a FSS participant moves from another HA's jurisdiction with continued HCV assistance this HA is not obligated to enroll the FSS family in its FSS program. The family must qualify under the HA's guidelines for selection and participation in FSS program.

C. Reduction of Required FSS Program:

HA's may reduce their FSS obligation by one family for each FSS graduate fulfilling the family's contract of participation obligations on or after 10/21/1998. Also, minimum FSS program size will not increase when a HA receives incremental HCV funding and/or public housing units on or after 10/21/1998.

#### **XXXVII. Deconcentration Rule**

The objective of the deconcentration rule for HCV tenant-based assistance is to admit no less than 75% of its new admissions to the program to families that have income at or below 30% of the area median income. The HA will track the status of all new admissions monthly by utilizing income reports generated by the HA's computer system. The goal will be tracked monthly and if the HA is not reaching its goal, families will be skipped on the waiting list to admit a family that has income that is at or below 30% of area median income. The practice will continue until the HA achieves its goal. The HA's HCV applicant selection process, which is contained in the HCV Administrative Plan provides for the skipping of families on the waiting list to accomplish this goal.

#### **XXXVIII. Closing of Files and Purging Inactive Files**

This HA will purge inactive files, after they have been closed for a period of three years, with the exception of troubled cases, or cases involving a household containing a minor with a reported elevated blood-lead level.

During the term of each assisted lease and for three years thereafter the HA will keep the lease, HAP Contract and the application from the family. In addition, the HA must keep for at least three years the following records:

- (a) Records with racial, ethnic, gender and disability status data for applicants and participants.

The application from each ineligible family and the notice that the applicant is ineligible.

HUD required reports and other HUD required files.

Lead based paint inspection reports as required.

Unit inspection reports.

Accounts and other records supporting the HA and financial statements.

Other records which may be specified by HUD.

The HA shall retain all data for current participants for audit purposes. No information shall be removed which may affect an accurate audit.

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**All debts owed to PHAs will be recorded in the EIV system.**

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#### **XXXIX. Applicant Informal Review**

##### **A. Applicant Informal Review:**

The HA must give an applicant for participation prompt notice of a decision denying assistance to the applicant. The notice must contain a brief statement of the reasons for the HA decision. The notice must also state that the applicant may request an informal review

of the decision and must describe how to obtain the informal review. The request must be in writing and presented to the HA within ten days of the notice of denial.

1. Informal Review Process:

The HA must give an applicant an opportunity for an informal review of the HA decision denying assistance to the applicant. The review may be conducted by any person or persons designated by the HA, other than a person who made or approved the decision under review or a subordinate of this person. The applicant must be given an opportunity to present written or oral objections to the HA decision. The HA must notify the applicant of the final decision after the informal review. This notice must include a brief statement of the reasons for the final decision.

2. Informal Review Not Required:

An informal review is not required to be given by the HA in the following circumstances:

- a. Discretionary administrative determinations by the HA.
- b. General policy issues or class grievances.
- c. A determination of the family unit size under the HA subsidy standards.
- d. An HA determination not to approve the suspension or extension of a voucher term.
- e. A determination not to grant approval to lease a unit under the program, or to approve a proposed lease.
- f. A determination that a unit selected by the applicant is not in compliance with HQS.
- g. A determination that the unit is not in accordance with HQS because of the family size or composition

B. Participant Informal Hearing Participant Informal Hearing:

The HA must give an opportunity to the participant for an informal hearing to consider whether the HA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and HA policies. Under the following circumstances:

- (a) 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 for tenant-paid utilities from the HA utility allowance schedule.

A determination of the family unit size under the HA subsidy standards.

A determination that the family is receiving subsidy for a larger number of bedrooms than appropriate for the family unit size under the HA subsidy standards, or the HA determination to deny the family's request for an exception from the standards.

A determination to terminate assistance for a participant family because of the family's action or failure to act.

A determination to terminate assistance because the participant family has been absent from the assisted unit for more than fourteen days in a calendar year.



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**In the cases described hereinabove, the HA must give the opportunity for an informal hearing before the HA terminates housing assistance payments for the family under an outstanding HAP contract.**

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- (b) The HA is not required to give an informal hearing for any of the following:
- a. Discretionary administrative determinations by the HA.
  - b. General policy issues or class grievances.
  - c. Establishment of the HA schedule of utility allowances for families in the program.
  - d. A HA determination not to approve an extension or suspension of a voucher term.
  - e. A HA determination not to approve a unit or lease.
  - f. A HA determination that an assisted unit is not in compliance with HQS. Provided, however, that the HA must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in the Voucher/Lease Addendum, or in other HUD rules and regulations or HA policies.
  - g. A HA determination that a unit is not in accordance with HQS because of the family size.
  - h. A HA determination to exercise or not to exercise any right or remedy against the owner under a HAP contract.

(c) Notice to the Family:

The HA must notify the family that the family may ask for an explanation of the basis of the HA determination, and if the family does not agree with the determination, the family may request an informal hearing on the decision. The housing authority must give the family prompt written notice that the family may request a hearing, and this notice must contain a brief statement of the reasons for the decision, state that if the family does not agree with the decision, the family may request an informal hearing on the decision. The family has ten days from the date of the notice to request in writing an informal hearing. The hearing will be scheduled by the HA within ten days from the date of the request.

C. Hearing Procedures:

The HA must give the participant an opportunity for an informal hearing of the HA decision terminating assistance to the participant. The hearing may be conducted by any person or persons designated by the HA, other than a person who made or approved the decision under review or a subordinate of this person. The person who conducts the hearing may regulate the conduct of the hearing in accordance with the HA hearing procedures. The HA and the participant shall each have the right to review any and all relevant documents which may be used in the hearing. If these documents are not made available for review, they may not be used in the hearing. Any fees for copying or procuring the documents shall be at the expense of the requesting party. The participant may be represented by a lawyer or other representative at the hearing. Costs of representation shall be the responsibility of the participant. The participant must be given an opportunity to present written or oral objections to the HA decision. The HA and the family must be given the opportunity to present evidence, and may question any witnesses. Evidence may be

considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. The HA must notify the applicant of the final decision after the informal review. This notice must include a brief statement of the reasons for the final decision. Factual determination relating to the individual circumstances of the family shall be based upon a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the family.

## **XL. HOUSING CHOICE VOUCHER PROJECT-BASED PROGRAM [24 CFR 983]**

### **A. OVERVIEW**

#### **1. PBV Program Introduction:**

The Project-Based Voucher Program ("PBV Program") was enacted in 1998 as part of the Quality Housing and Work Responsibility Act (QHWRA), with substantial revisions under the FY 2001 Appropriations Act. Based on a proposed rule and public comment, the U.S. Department of Housing and Urban Development ("HUD") published the Final Rule on November 14, 2005. Further guidelines for implementation are to be found in PIH Notices including PIH 2011-54 of September 20, 2011 and 2015-5 of April 1, 2015.

The Program may be administered by public housing authorities that already administer a Tenant-Based Voucher Program under an Annual Contributions Contract ("ACC") with HUD. The significant difference between the programs is that assistance is "attached to the structure" in the PBV Program while assistance is considered "portable" in the Tenant-Based Program. Under HUD regulations at 24 CFR 983, a public housing authority may commit up to 20% of its budget authority under the ACC to project-based vouchers ("PBV"). Participation is allowed at the discretion of the individual public housing authority. No additional funding is provided by HUD for the administration of the PBV Program.

The Housing Authority of the City of Foley, AL ("FHA") will utilize this PBV Program to further its mission of creating and preserving affordable housing in Foley, Alabama and the surrounding area. This Chapter of the FHA's existing Section 8 Administrative Plan defines the procedures and the criteria for acceptance of units to the PBV Program. This Chapter also explains regulatory differences between the PBV Program and Tenant-Based Voucher Program that are significant for owners and participants.

#### **2. PBV Definitions [24 CFR 983.3]**

*Admission.* The point when the family becomes a participant in the FHA's tenant-based or PBV Program (initial receipt of tenant-based or project-based assistance). After admission, and so long as the family is continuously assisted with tenant-based or PBV

assistance from the FHA, a shift from tenant-based or project-based assistance to the other form of voucher assistance is not a new admission.

*AHAP contract.* The Agreement to Enter into a Housing Assistance Payments contract, a written contract between FHA and the owner in the form prescribed by HUD. The AHAP contract defines requirements for development of housing to be assisted under the Program. When the development is completed by the owner in accordance with the AHAP contract, FHA enters into a HAP contract with the owner. The AHAP contract is not used for existing housing assisted under this section.

*Comparable rental assistance.* A subsidy or other means to enable a family to obtain decent housing in FHA's jurisdiction renting at a gross rent that is not more than 40 percent of the family's adjusted monthly gross income.

*Contract units.* The housing units covered by a HAP contract.

*Development.* Construction or rehabilitation of PBV housing after the proposal selection date.

*Elderly Person.* An individual or individuals described under 24 CFR 5.403.

*Excepted units.* Units in a multifamily building not counted against the 25 percent per-building cap.

*Existing housing.* Housing units that already exist on the proposal selection date and that substantially comply with the HQS on that date. (The units must fully comply with the HQS before execution of the HAP contract.)

*Homeless.* As defined under section 103 of the McKinney-Vento Homeless Assistance Act (24CFR 578.3).

*Multifamily building.* A building with five or more dwelling units (assisted or unassisted).

*Newly constructed housing.* Housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an AHAP contract between FHA and owner for use under the PBV Program.

*FHA-owned unit.* A dwelling unit owned by FHA that administers the voucher program. A dwelling unit is FHA-owned if it is in a project that is: (a) Owned by FHA (which includes FHA having a "controlling interest" in the entity that owns the unit); (b) Owned by an entity wholly controlled by FHA; or (c) Owned by a limited liability company or limited partnership in which FHA (or an entity wholly controlled by FHA) holds a controlling interest in the managing member or general partner. "Controlling interest" means: (a) Holding more than 50 percent of the stock of any corporation; or (b) Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a non-profit corporation); or (c) Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of FHA; or (d) Holding more than 50 percent of all managing member interests in an LLC; or (e) Holding more than 50 percent of all general partner interests in a partnership; or (f) Having an equivalent level of control in other ownership structures not otherwise described herein, provided that FHA must have more than 50 percent control in that ownership structure for the project to be considered FHA-owned. The following are scenarios under which a dwelling unit is not considered FHA-owned: (a) FHA holds a fee interest as ground lessor of the property on which the building is situated, but no ownership interest in the building or unit itself; or (b) FHA holds only a security interest under a mortgage or deed of trust on the unit; or (c) FHA has only a non-controlling interest in an

entity that owns the unit or in the managing member or general partner of an entity that owns the unit.

*Person with Disabilities.* An individual or individuals described under 24 CFR 5.403.

*Proposal selection date.* The date FHA gives written notice of PBV proposal selection to an owner whose proposal is selected in accordance with the criteria established in this Chapter.

*Rehabilitated housing.* Housing units that exist on the proposal selection date, but do not substantially comply with the HQS on that date, and are developed, pursuant to an AHAP contract between FHA and owner, for use under the PBV Program.

*RAD.* The Rental Assistance Demonstration program, a development program which provides for special treatment of PBVs. (PIH-2012-32 (HA); H 2017-03 REV3; 1/12/17)

*Single-family building.* A building with no more than four dwelling units (assisted or unassisted).

*Site.* The grounds where the contract units are located, or will be located after development pursuant to the AHAP contract.

*Supportive Services* means that the project makes supportive services available for all of the assisted families with services tailored to the resident population (may include meal services, housekeeping aide, personal assistance, transportation, health related services, educational, or employment services).

*Wrong size unit.* A unit occupied by a family which is the wrong size based on family composition and public housing authority subsidy standards or a unit with accessibility features that the resident family does not require and the unit is needed by a family who needs those features.

### 3. Other Federal Requirements [24 CFR 983.4]:

The following provisions apply to assistance under the PBV Program:

Housing Opportunity through Modernization Act of 2016 (HOTMA): Implementation of Various Section 8 Voucher Programs.

Civil money penalty. Penalty for owner breach of HAP contract. See 24 CFR 30.68.

Debarment. Prohibition on use of debarred, suspended, or ineligible contractors. See 24 CFR 5.105(c) and 24 CFR part 24.

Environmental review. See 24 CFR parts 50 and 58 (see also provisions on PBV environmental review at Sec. 983.58).

Fair housing. Nondiscrimination and equal opportunity. See 24 CFR 5.105(a) and section 504 of the Rehabilitation Act.

Fair market rents. See 24 CFR part 888, subpart A.

Income and family payment. See 24 CFR part 5, subpart F various sections including Sec. 5.661 (section 8 project-based assistance programs: approval for police or other security personnel to live in project).

Labor standards. Regulations implementing the Davis-Bacon Act, Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), 29 CFR part 5, and other federal laws and regulations pertaining to labor standards applicable to an AHAP contract covering nine or more assisted units.

Lead-based paint. Regulations implementing the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856). See 24 CFR part 35, subparts A, B, H, and R.

Non-citizens. Restrictions on assistance. See 24 CFR part 5, subpart E.

Program accessibility. Regulations implementing Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). See 24 CFR parts 8 and 9.

Relocation assistance. Regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655). See 49 CFR part 24.

Section 3--Training, employment, and contracting opportunities in development. Regulations implementing Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u). See 24 CFR part 135.

Other Federal requirements listed in 983.4.

#### 4. Maximum and Minimum Amount of PBV assistance [24 CFR 983.6]:

FHA's PBV Program is funded with a portion of the budget authority available under the FHA's voucher ACC. This pool of funding is used to pay housing assistance for both tenant-based and PBV units and to pay FHA administrative fees for administration of tenant-based and PBV assistance. There is no special or additional funding or units available from HUD for PBVs.

FHA will determine at least annually whether to issue an RFP or RFPs for the PBV Program, and the number of vouchers to make available. Total existing and new project-based HAP contracts may not exceed the maximum of 20% of FHA's units under the ACC.

An additional 10% of units may be awarded for homeless families, families with veterans, or supportive housing for persons with disabilities or elderly persons.

RAD approved units are not counted in the 20% calculation (24 CFR 983.6).

HUD-VASH PBV set-aside vouchers are not counted. All other HUD VASH vouchers are still subject to the PHA PBV Program limitation.

#### 5. Uniform Relocation Act [24 CFR 983.7]:

All households displaced as a result of the AHAP contract or HAP contract must be provided relocation assistance at the levels described in and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42U.S.C. 4201-4655) and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, or with local public funds, or with funds available from other sources. FHA will require the owner to comply with the URA and 49 CFR part 24. In computing a replacement housing payment to a residential tenant displaced as a direct result of privately undertaken rehabilitation or demolition of the real property, the term "initiation of negotiations" means the execution of the AHAP contract between the owner and the FHA.

## 6. Purpose of Program:

The program goals for the Project-Based Voucher (PBV) Program are:

- a. To contribute to the improvement and long-term viability of the area's housing stock.
- b. To increase the supply of affordable housing and location choice for very low-income households.
- c. To integrate housing and supportive services such as education, case management, job training, and day care to help families and individuals achieve stability and self-reliance.
- d. To promote the coordination and leveraging of resources of public, semi-public, or nonprofit agencies with compatible missions.

## 7. Program Elements:

- a. A PHA may attach up to 20 percent of its voucher baseline budget to PBV units.
- b. The units may be new construction, rehabilitated or existing units.
- c. Not more than 25 percent of the units in any building may be assisted with PBV. The exceptions to this limitation are for single-family properties (defined as 1-4 units in a building) and "excepted units" in a multi-family building. Excepted units are those that are specifically made available for elderly or disabled families or families receiving supportive services.
- d. The location of PBV units must be consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities.

## 8. Requirements for Participation:

- a. Competitive Selection Process: FHA must follow a competitive selection process as described in the regulations at 24 CFR §983.51, unless an exception applies. Exceptions to the competitive selection process are permitted on a case by case basis, as described in item 3 of this section.
- b. Developers/ Owners Proposal: Developers/owners must submit a proposal for PBV assistance in response to a Request for Proposals (RFP) issued by FHA as part of the competitive selection process described in item 1, above. Before FHA selects a PBV proposal, FHA will determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing (24 CFR §983.53 and §983.54), complies with the cap on the number of PBV units per building (24 CFR §983.56), and meets



the site selection standards (24 CFR §983.57). FHA 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.

- c. Non-Competitive Selection Process under HOTMA: As per the Housing Opportunity Through Modernization Act of 2016 (HOTMA) FHA may, by amendment to this Administrative Plan, from time to time attach PBV assistance to units in a project in which FHA has an ownership interest or over which FHA has control, without following a competitive selection process. Use of this non-competitive selection exception requires FHA's engagement in an initiative to improve, develop, or replace a public housing property or site.
- d. PHA ownership interest. In order to qualify for this exception to use a non-competitive selection process for receipt of PBV assistance, the units which receive the assistance must be in a project in which FHA has an ownership interest or over which FHA has control. For the purposes of this exception, an "ownership interest" is not limited to the definition of "PHA owned" as defined herein or otherwise by HUD, and does include any FHA connection to a project where FHA, its officers, employees, or agents hold any direct or indirect interest in the project in which the units are located, including, but not limited to, an interest as any of the following:
  - i. Titleholder;
  - ii. Lessee;
  - iii. Stockholder;
  - iv. Member, or general or limited partner;
  - v. Member of a limited liability corporation; or
  - vi. Lessor of the ground lease for the land upon which the PBV project is located or will be constructed.
- e. Other conditions for use of this non-competitive selection exception are as follows:
  - i. FHA must be engaged in an initiative to improve, develop, or replace public housing properties or sites. The public housing properties or sites may be in FHA's existing public housing inventory or they may be from those previously removed from the public housing inventory through any available legal removal tool within five years of the date on which FHA entered into the Agreement to Enter a Housing Assistance Payments (AHAP) contract or Housing Assistance Payments (HAP) contract, pursuant to the non-competitive selection.
  - ii. If FHA plans rehabilitation or new construction, a minimum threshold of \$25,000 in hard costs per-unit is required, except as provided in iii, below.
  - iii. If FHA plans to replace public housing by attaching project-based assistance to existing housing in which the Agency has an ownership interest or over which



FHA has control, then the \$25,000 per-unit minimum threshold does not apply as long as the existing housing substantially complies with HUD's housing quality standards (HQS)

iv. An explanation of the work FHA plans to do on the property or site and how many units of PBV assistance the Agency plans to add via non-competitive selection must be added.

v. All of the units identified by FHA for non-competitive selection must be eligible for PBV assistance in accordance with 24 CFR 983.53. Furthermore, selection of the units must satisfy all other statutory and regulatory requirements of the PBV program as per HUD and this chapter of FHA's Administrative Plan.

f. Non-Competitive Selection Process under 24 CFR §983.51(b): Selection of a proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., sites which were competitively selected by Alabama Housing Finance Authority for an award of low-income housing tax credits), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

g. Public Notice of FHA RFPs: If FHA selects proposals by RFP, then FHA will provide public notice of the RFP and deadline in a manner consistent with FHA's Procurement Policy.

h. FHA notice of owner selection: FHA will give written notice to the party that submitted a selected proposal within 60 days of the RFP submission deadline. The notice of selection will include a summary of the requirements that must be met before FHA can enter into an AHAP contract and/or HAP contract with the owner.

FHA will give public notice of such selection within 30 days of notice of the selection to the owner. Public notice procedures will be consistent with FHA's standard public notice procedures.

i. FHA-owned units: A FHA-owned unit may be assisted under the PBV Program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the FHA-owned units were appropriately selected based on the selection procedures and criteria specified in the Administrative Plan. Under no circumstances may PBV assistance be used with a public housing unit. (PIH-2015(HA) April 1, 2015)

- i. j. Public review of FHA selection decision documentation: FHA will make documentation available for public inspection regarding the basis for the FHA selection of a PBV proposal upon reasonable request.

#### 9. Selection Criteria:

FHA will review proposals requesting PBV based on the selection criteria detailed in the Request for Proposals, and in compliance with all relevant statutory, regulatory, and FHA requirements.

Before FHA will provide voucher rental assistance, all developments must have PHA Board approval, meet Housing Quality Standards and have an executed Housing Assistance Payments Contract.

General RFP Selection Criteria for newly constructed and rehabilitated housing, such as: (1) owner experience and capability to build or rehabilitate housing as identified in the RFP and as an owner or manager of residential rental property; (2) owner financial capacity; (3) the extent to which a project furthers FHA's goal of deconcentrating poverty and expanding housing and economic opportunities; (4) the extent to which a project facilitates resident access to the surrounding community and amenities; and, if applicable, (5) the extent to which services for special populations (i.e., units for elderly or disabled families and/or individuals) are provided on site or in the immediate area for occupants of the property.

#### 10. When the tenant-based voucher rule (24 CFR part 982) applies [24 CFR 983.2]:

24 CFR Part 982 is the basic regulation for the tenant-based voucher program. All of part 982 applies to the PBV Program except for the following:

- (1) Provisions on issuance or use of a voucher;
- (2) Provisions on portability;
- (3) Provisions on the following special housing types: shared housing, cooperative housing, manufactured home space rental, and the homeownership option. FHA may not provide PBV Program assistance to these types of housing (24 CFR 983.9)
- (4) Other exceptions as specified in 983.2.

### **B. ELIGIBLE UNITS**

#### 1. Eligible Units:

- a. All PBV selected sites must be in compliance with PBV goals, Civil Rights requirements and Housing Quality Standards. FHA will review the applications to determine if the location is consistent with the goal of deconcentrating poverty and preserving and/or expanding housing and economic opportunities. FHA will

take into consideration the site selection standards listed in 24 CFR §983.57 and the PBV program goals.

- b. To define a PBV unit as a unit in a rehabilitated housing, each unit must require a minimum of \$3000 in rehabilitation costs.
- c. For units requesting an exception to the 25 percent cap in a building, and that exception is based on providing supportive services, the services must be designed as services essential for maintaining or achieving independent living such as, but not limited to, counseling, education, job training, health care, mental health services, alcohol and/or other substance abuse services, child care services and or case management services. These services may be defined as being a participant in a PHA's FSS program.

## 2. Ineligible Units:

Before selecting a specific unit to which assistance is to be attached, FHA will determine whether the unit is occupied and, if occupied, whether the unit's occupants are eligible for assistance. FHA will not select or enter into an AHAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV Program. FHA may not attach PBV assistance for units if the following types of housing:

- a. Shared housing
- b. Units on the grounds of a penal, reformatory, medical, mental or similar public or private institution
- c. Nursing homes or facilities providing continuous psychiatric medical, nursing service, board and care or intermediate care
- d. Units that are owned or controlled by an educational institution and are designated for occupancy by students of the institution
- e. Manufactured homes
- f. Transitional housing
- g. Owner occupied units
- h. Units occupied by an ineligible family.
- i. Units subsidized with any governmental rent subsidy or any governmental subsidy that covers all or any part of the operating costs of the housing. (24 CFR 983.54(c)(d))

## C. APPLICANT ELIGIBILITY FOR PARTICIPATION

- 1. Applicants must meet the eligibility requirements for tenant-based Housing Choice Voucher Program.
- 2. Persons who will reside in PBV units must come from FHA wait list and/or be referred by the owner.

- a. When a vacancy occurs in a PBV supportive housing unit, the owner may refer applicants to FHA. The applicant names will be placed on the FHA wait list and selected as a special admission for the available unit.
- b. FHA will survey its regular wait list no less than once a year for each bedroom size for vacancies in non-supportive housing PBV developments. If the PHA is unable to provide enough eligible applicants from its wait list to fill PBV units, the owner may refer applicants to FHA.
3. FHA will not screen applicants for family behavior or check rental references. This will remain the responsibility of the owner. FHA will screen applicants in the manner established for all voucher applicants.
4. If the owner of a PBV unit denies a PBV applicant that has come from FHA's wait list, that denial does not affect their place on the wait list for tenant based assistance.
5. If the owner refers an applicant (because FHA was unable to provide interested, eligible applicants) that applicant will be placed on the wait list as a special admission for the PBV program. The applicant must still meet all tenant-based eligibility requirements.
6. If an applicant from FHA wait list has been approved by the owner and is in verification status with FHA and their name comes to the top of the wait list to receive tenant based assistance (TBA), the applicant will be given the option to continue to be processed for the PBV unit or to be processed for a TBA voucher. The applicant will sign a statement declaring their choice.

#### D. SUBSIDY LAYERING REVIEW

FHA will provide PBV assistance only in accordance with HUD subsidy layering regulations (24 CFR 4.13) and other requirements. The subsidy layering review is intended to prevent excessive public assistance for the housing 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.

FHA will not enter an AHAP contract or HAP contract until HUD or an independent entity approved by HUD has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

#### E. CAP ON NUMBER OF PBV UNITS PER BUILDING

*25 percent or 25 unit per building cap.* FHA will not select a proposal to provide PBV assistance for units in a building or enter into an AHAP contract or HAP contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP is more than the greater of 25 units in a project or 25 percent of the number of dwelling units (assisted or unassisted) in a building.

*Excepted Units.* In the following cases, PBV units are not counted against the 25 percent per building cap:

- (1) Units in a single-family building (1-4 units);
- (2) Projects that are in a census tract of 20% of poverty or less;
- (3) Excepted units in a multifamily building.

“Excepted units” means units in a multifamily building that are specifically made available for qualifying families. “Qualifying families” means:

- (A) Elderly or disabled families; or
- (B) Families receiving supportive services.

*Set-aside for qualifying families.* In leasing units in a multifamily building pursuant to the PBV HAP contract, the owner must set aside the number of excepted units made available for occupancy by qualifying families. FHA may refer only qualifying families for occupancy of excepted units.

## F. SUPPORTIVE SERVICES FOR FAMILIES IN EXCEPTED UNITS

Supportive services for exempted units must be in addition to those provided by FHA. They may be coordinated by a supportive services coordinator employed by the owner or management company, or provided by a qualified non-profit service agency as determined by FHA.

All tenant-based and PBV residents, regardless of disabilities or limitations, are eligible for supportive services provided by FHA, including the Family Self-Sufficiency Program.

Supportive services proposed by the owner, property manager, or a non-profit service agency must be specified in the response to the PBV RFP. If the services are approved and the proposed units are accepted as exempt by FHA, the services are described as a required component in the AHAP contract and HAP contract. To qualify as an excepted unit, the owner or provider agency must demonstrate a reasonable likelihood of funding for the approved supportive services for families occupying the unit throughout the term of the HAP contract.

To qualify as a FHA approved supportive service in excepted units, services must be directed to helping the family achieve the ability to live independently as possible in consideration of their disability. It must be based on case management which accurately assesses family needs, makes appropriate referrals for serving those needs, encourages family participation, and accurately tracks and records family participation and progress on a monthly basis. It is not necessary that the services be provided at or by the project, if they are approved by FHA.

Participation in the approved supportive service is not mandatory for families of excepted units however such services may be offered (983.207(a)). To qualify for an excepted unit, a family must have at least one adult member receiving at least one qualifying supportive service. FHA will not

require participation in medical or disability-related services as a condition of living in an excepted unit, other than drug and alcohol treatment in the case of current abusers.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received supportive services as defined here, and successfully completes the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. If a family in an excepted unit fails to complete the supportive services requirement as outlined herein, FHA will take the actions provided under Sec. 983.261(d), and the owner may terminate the lease in accordance with Sec. 983.257(c).

At the time of initial lease execution between the family and the owner, the family and FHA will sign a statement of family responsibility. The statement of family responsibility must contain all family obligations including the family's participation in a service program under this section. Failure by the family without good cause to fulfill its service obligation will require FHA to terminate assistance. If the unit at the time of such termination is an excepted unit, the exception continues to apply to the unit as long as the unit is made available to another qualifying family.

FHA will monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. FHA will visit sites with excepted units annually to verify continued operation of the program and compliance with the requirements of the HAP contract. This site visit will include an interview with the program or case manager, and a review of a representative portion of case files and the system for tracking family participation.

## G. HUD SITE SELECTION STANDARDS

FHA will not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an AHAP contract or HAP contract for units on the site, unless FHA has determined that:

(1) Project-based assistance for housing at the selected site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities. The standard for de-concentrating poverty and expanding housing and economic opportunities must be consistent with FHA Agency Plan and the FHA Administrative Plan. In developing the standards to apply in determining whether a proposed PBV development will be selected, a FHA will consider the following:

- (a) Whether the census tract in which the proposed PBV development will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- (b) Whether a PBV development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;

(c) Whether the census tract in which the proposed PBV development will be located is undergoing significant revitalization;

(d) Whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement;

(e) Whether new market rate units are being developed in the same census tract where the proposed PBV development will be located and the likelihood that such market rate units will positively impact the poverty rate in the area;

(f) If the poverty rate in the area where the proposed PBV development will be located is greater than 20 percent, FHA will consider whether in the past five years there has been an overall decline in the poverty rate;

(g) Whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed PBV development will be located.

(2) The site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d(4)) and HUD's implementing regulations at 24 CFR part 1; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-3629); and HUD's implementing regulations at 24 CFR parts 100 through 199; Executive Order 11063 (27 FR 11527; 3 CFR, 1959-1963 Comp., p. 652) and HUD's implementing regulations at 24 CFR part 107. The site must meet the section 504 site selection requirements described in 24 CFR 8.4(b) (5).

*Existing and rehabilitated housing site and neighborhood standards.* A site for existing or rehabilitated housing must meet the following site and neighborhood standards. The site must:

(1) Be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities and streets must be available to service the site. (The existence of a private disposal system and private sanitary water supply for the site, approved in accordance with law, may be considered adequate utilities.)

(2) Promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(3) Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(4) Be so located that travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not excessive. While it is important that housing for the elderly not be



totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.

*New construction site and neighborhood standards.* A site for newly constructed housing must meet the following site and neighborhood standards:

(1) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.

(2) The site must not be located in an area of minority concentration, except as permitted under paragraph (3) of this section, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

(3) A project may be located in an area of minority concentration only if:

(a) Sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration; or

(b) The project is necessary to meet overriding housing needs that cannot be met in that housing market area.

(c) As used in paragraph (3) (a) of this section, "sufficient" does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality's population.

(d) Units may be considered "comparable opportunities," as used in paragraph (3)(a) of this section, if they have the same household type (elderly, disabled, family, large family) and tenure type (owner/renter); require approximately the same tenant contribution towards rent; serve the same income group; are located in the same housing market; and are in standard condition.

(e) Application of this sufficient, comparable opportunities standard involves assessing the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority

concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice:

- (i) A significant number of assisted housing units are available outside areas of minority concentration.
- (ii) There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.
- (iii) There are racially integrated neighborhoods in the locality.
- (iv) Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.
- (v) Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.
- (vi) A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs.
- (vii) Comparable housing opportunities have been made available outside areas of minority concentration through other programs.

Application of the “overriding housing needs” criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the Immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a “revitalizing area”). An “overriding housing need,” however, may not serve as the basis for determining that a site is acceptable, if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.

(4) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(5) The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

(6) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(7) Except for housing designed for elderly persons, travel time, and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive.

## H. ENVIRONMENTAL REVIEW

Activities under the PBV Program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The City of Dothan/County of Houston, Alabama is the “responsible entity” or “RE” responsible for the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and related applicable federal laws and authorities in accordance with 24 CFR 58.5 and 58.6. If FHA objects in writing to having the RE perform the federal environmental review, or if the RE declines to perform it, then HUD may perform the review itself. (24 CFR 58.11).

In the case of existing housing, the RE must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

FHA may not enter into an AHAP contract or HAP contract with an owner, and the FHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until one of the following occurs:

- (1) The RE has completed the environmental review procedures required by 24 CFR part 58, and HUD has approved the environmental certification and request for release of funds;
- (2) The RE has determined that the project to be assisted is exempt under 24 CFR 58.34 or is categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b); or
- (3) HUD has performed an environmental review under 24 CFR part 50 and has notified FHA in writing of environmental approval of the site.

HUD will not approve the release of funds for PBV assistance under this part if FHA, the owner, or any other party commits funds (i.e., enters an AHAP contract or HAP contract or otherwise incurs any costs or expenditures to be paid or reimbursed with such funds) before FHA submits and HUD approves its request for release of funds (where such submission is required).

FHA will supply all available, relevant information necessary for the RE (or HUD, if applicable) to perform any required environmental review for any site. FHA will require the owner to carry out mitigating measures required by the RE (or HUD, if applicable) as a result of the environmental review.

## I. FHA-OWNED UNITS

*Selection of FHA-owned units.* The selection of FHA-owned units must be done in accordance with the proposal selection procedures set forth in this Chapter (24 CFR 983.51(e)). In the case of FHA-owned units, the following program services may not be performed by the FHA, but must be performed instead by an independent entity approved by HUD.

(1) *Determination of rent to owner for the FHA-owned units.* Rent to owner for FHA-owned units is determined pursuant to Sec. 983.301 through 983.305 in accordance with the same requirements as for other units, except that the independent entity approved by HUD must establish the initial contract rents based on an appraisal by a licensed, state-certified appraiser; and

(2) Inspection of FHA-owned units as required by Sec. 983.103(f).

The independent entity that performs these program services may be the unit of general local government for FHA jurisdiction (unless FHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

FHA may only compensate the independent entity and appraiser from FHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). FHA may not use other program receipts to compensate the independent entity and appraiser for their services. The FHA, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

## J. HOUSING QUALITY STANDARDS

(1) *HQS applicability.* Except as otherwise provided in this section, 24 CFR 982.401 (housing quality standards) applies to the PBV Program. The physical condition standards at 24 CFR 5.703 do not apply to the PBV Program.

(2) *HQS for special housing types.* For special housing types assisted under the PBV Program, HQS in 24 CFR part 982 apply to the PBV Program.

(3) Lead-based paint requirements.

(a) The lead-based paint requirements at Sec. 982.401(j) do not apply to the PBV Program.

(b) The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV Program.

(4) HQS enforcement. Parts 982 and 983 do not create any right of the family or any party, other than HUD or FHA, to require enforcement of the HQS requirements or to assert any claim against HUD or FHA for damages, injunction, or other relief for alleged failure to enforce the HQS.

(5) This section establishes the minimum federal housing quality standards for PBV housing. However, FHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the AHAP contract.

## K. 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. FHA shall 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 part 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.

## L. INSPECTING UNITS

FHA will examine the proposed site before the proposal selection date. If the units to be assisted already exist, FHA will inspect all the units before the proposal selection date, and must determine whether the units substantially comply with the HQS. To qualify as existing housing, units must substantially comply with the HQS on the proposal selection date. The FHA may approve assisted tenancy and commence HAP if the unit fails the inspection but only has non-life threatening deficiencies and if the deficiencies are remedied within no more than 30 days of the FHA notifying the owner of the units in writing of the unit's failure to meet HQS.

Non-life threatening conditions are under HQS 24 CFR 982.401. Per HOTMA (2016) life threatening conditions include issues associated with gas, electrical, inoperative smoke detectors, interior air quality, HVAC deficiencies, lack of alternative means of egress, other interior hazards, and deteriorated paint in a unit built before 1978 and occupied by a child under 6 years of age.

FHA will inspect each contract unit before execution of the HAP contract. FHA may not enter into a HAP contract until every unit covered by the contract fully complies with the HQS and all life threatening conditions are addressed.

*Turnover inspections.* Before providing assistance to a new family in a contract unit, FHA will inspect the unit. FHA may not provide assistance on behalf of the family until the unit fully complies with the HQS.

*Annual inspections.* At least annually during the term of the HAP contract, FHA will inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with the HQS. Turnover inspections are not counted toward meeting this annual inspection requirement. If more than 20 percent of the annual sample of inspected contract units in a building fail the initial inspection, FHA will re-inspect 100 percent of the contract units in the building.

*Other inspections.* FHA may inspect contract units whenever it determines an inspection is needed to comply with the HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. FHA will take into account complaints from residents and any other information coming to its attention in scheduling inspections.

*Follow-up Inspections.* FHA will conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of the HQS. (Family HQS obligations are specified in 24 CFR 982.404(b)).

*Quality Control Inspections.* In conducting supervisory quality control HQS inspections, FHA shall include a representative sample of both tenant-based and project-based units.

*Inspecting FHA-owned units.* In the case of FHA-owned units, the inspections required under this section must be performed by an independent agency designated in accordance the above section on FHA-owned units (24 CFR 983.59). The independent entity must furnish a copy of each inspection report to FHA and to the HUD field office where the project is located.

FHA will take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by FHA as owner.

#### M. THE AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT (24 CFR 983.152 - .154)

For units that do not substantially comply with HQS on the proposal selection date, an AHAP contract may be made. This includes newly constructed or rehabilitated housing sites which are not completed prior to their selection by FHA. In such cases the development must be completed under an AHAP contract between the owner and the FHA. The AHAP contract must be in the form required by HUD (see 24 CFR 982.162). In the AHAP contract the owner agrees to develop the contract units to comply with HQS, and FHA agrees that, upon timely completion of such development in accordance with the terms of the AHAP contract, FHA will enter into a HAP contract with the owner for the contract units.

At a minimum, the AHAP contract must include the following for units to be developed (newly constructed or rehabilitated) and assisted under the PBV Program:

- (1) Site description;
- (2) Location of contract units on site;
- (3) Number of contract units by area (square feet) and number of bedrooms and bathrooms;
- (4) Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent to owner;
- (5) Utilities available to the contract units, including a specification of utility services to be paid by owner (without charges in addition to rent) and utility services to be paid by the tenant;
- (6) Indication of whether or not the design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205 and the accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR 8.22 and 8.23 apply to units under the AHAP contract. If these requirements are applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the AHAP contract;
- (7) Estimated initial rents to owner for the contract units;
- (8) Anticipated term of the initial HAP contract;
- (9) Description of the work to be performed under the AHAP contract. If the AHAP contract is for rehabilitation of units, the work description must include the site plan and rehabilitation work write up and, where determined necessary by the FHA, specifications, and plans. If the AHAP contract is for new construction, the work description must include the working drawings and specifications. At a minimum, the housing must comply with the HQS. FHA may elect to establish additional requirements for quality, architecture, or design of PBV housing, over and above the HQS, and any such additional requirement must be specified in the AHAP contract;
- (10) Deadlines for completion by the owner, and for the owner to submit the required evidence of completion.

In the case of an AHAP contract for nine or more contract units to be newly constructed or substantially rehabbed, the owner must certify that its contractors and subcontractors will pay Davis-Bacon wages to laborers and mechanics employed in the construction of the contract units. They must also certify they will comply with Section 3 of the Housing and Urban Development Act of 1968.

The AHAP contract will include the requirements in 24 CFR 983.154 including certification by the Owner that they, and other project principals, are not on the US General Services Administration list of parties excluded from federal procurement and non-procurement programs. In addition, the owner must disclose any possible conflict of interest that would be a violation of the AHAP contract, the HAP Contract, or HUD regulations.



The AHAP contract will specify that, at a minimum, the housing must comply with the HQS and obtain a final certificate of occupancy from the **City of Dothan/County of Houston**, Alabama after passing **City of Dothan/County of Houston** inspections for compliance with the **City of Dothan/County of Houston** adopted building and property maintenance codes.

FHA may not enter the AHAP contract with the owner until the subsidy layering review is completed by HUD and the environmental review is completed and the FHA has received the environmental approval from the RE. The AHAP contract will be executed promptly by FHA after it gives notice of proposal selection to the owner, and receives the subsidy layering review approval from HUD and the environmental review approval from RE.

## N. COMPLETION AND ACCEPTANCE OF UNITS

The owner must complete the housing in accordance with the terms of the AHAP contract. Evidence of completion will include the following in the form and manner required by FHA:

- (1) Owner certification that the work has been completed in accordance with the HQS and all requirements of the AHAP contract;
- (2) Owner certification that the owner has complied with the labor standards and equal opportunity requirements set forth in the AHAP contract;
- (3) A permanent certificate of occupancy from the **City of Foley/County of Baldwin**, Alabama;
- (4) An architect's certification that the housing complies with:
  - (a) HUD Housing Quality Standards;
  - (b) All applicable building codes;
  - (c) Zoning;
  - (d) The rehabilitation work write-up (for rehabilitated housing) or the plans and specifications (for newly constructed housing); or any additional design or quality requirements required by FHA pursuant to the AHAP contract.

When FHA has received owner notice that the housing is completed:

- (1) FHA will inspect to determine if the housing has been completed in accordance with the AHAP contract, including compliance with the HQS and any additional requirement imposed by FHA under the AHAP contract.
- (2) FHA will determine if the owner has submitted all required evidence of completion.
- (3) If the work has not been completed in accordance with the AHAP contract, FHA will not enter into the HAP contract.

A request for FHA approval of any change in the project design or configuration which alters the terms of the AHAP contract (e.g. a reduction in the size or number of units) must be received by FHA 30 days in advance of the planned implementation of the change during construction. FHA shall have 10 business days to review such request. FHA may terminate the AHAP contract if such change, in the sole opinion of FHA, substantially alters the scope of the project, reduces the quality of the housing to be provided, or increases FHA's administrative requirements.

The owner must inform FHA 30 days in advance of any projected delay in the completion of the site, and request an extension of the AHAP contract. At FHA's discretion, the AHAP contract may be extended for a 30 day period. FHA may extend the AHAP contract for a total of three 30 day periods if it determines at the end of each period that there is reasonable cause for the delays. Extensions beyond 90 days are not permitted and FHA will advise the owner to re-submit the site in a future FHA PBV proposal round when it is completed.

If FHA determines that the housing has been completed in accordance with the AHAP contract and that the owner has submitted all required evidence of completion, the FHA will submit the HAP contract for execution by the owner and then execute the HAP contract.

## O. THE HAP CONTRACT

After FHA approves and accepts the units, it will enter into a HAP contract with the owner. The HAP contract must be in the form required by HUD (see 24 CFR 982.162). FHA will make housing assistance payments to the owner in accordance with the HAP contract. Housing assistance is paid for contract units leased and occupied by eligible families during the contract term.

The HAP contract must specify:

- (1) The total number of contract units by number of bedrooms;
- (2) Information needed to identify the site and the building or buildings where the contract units are located. The information must include the project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- (3) Information needed to identify the specific contract units in each building. The information must include the number of contract units in the building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- (4) Services, maintenance, and equipment to be supplied by the owner without charges in addition to the rent to owner;
- (5) Utilities available to the contract units, including a specification of utility services to be paid by the owner (without charges in addition to rent) and utility services to be paid by the tenant;

(6) Features provided to 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;

(7) The HAP contract term;

(8) The number of units in any building that will exceed the building cap (as described in Sec. 983.56), which will be set-aside for occupancy by qualifying families (elderly or disabled families and families receiving supportive services); and

(9) The initial rent to owner (for the first 12 months of the HAP contract term).

Before execution of the HAP contract, FHA will inspect each contract unit in accordance with the above section in this Chapter regarding inspecting units (24 CFR 983.103(b)). FHA may not enter into the HAP contract until FHA has determined that the unit complies with the HQS.

In the case of existing housing, the HAP contract must be executed promptly after FHA selection of the owner proposal and FHA inspection and acceptance of the housing.

In the case of newly constructed or rehabilitated housing the HAP contract must be executed after FHA has inspected the completed units and has determined that the units have been completed in accordance with the AHAP contract and the owner has furnished all required evidence of completion. In the HAP contract, the owner certifies that the units have been completed in accordance with the AHAP contract.

*Term of HAP contract.* FHA may enter into a HAP contract with an owner for an initial term of up to twenty years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than twenty years.

*Extension of Term.* Within one year before expiration, the FHA may agree to extend the term of the HAP contract for an additional term of up to twenty years if FHA determines an extension is appropriate to continue providing affordable housing for low-income families. Subsequent extensions are subject to the same limitations. Any extension of the term must be on the form and subject to the conditions prescribed by HUD at the time of the extension. The maximum total term of the contract with extensions is 40 years.

*Termination by FHA--Insufficient Funding.* The HAP contract must provide that the term of the FHA's contractual commitment is subject to the availability of sufficient appropriated funding (budget authority) as determined by HUD or by FHA in accordance with HUD instructions. For purposes of this section, "sufficient funding" means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, FHA has the right to terminate the HAP contract by notice to the owner for all or any of the contract units. Such notice shall be

delivered promptly after making such a determination. Such action by FHA shall be implemented in accordance with HUD instructions.

*Termination by Owner--Reduction below Initial Rent.* The owner may terminate the HAP contract, upon notice to the FHA, if the amount of the rent to owner for any contract unit, as adjusted in accordance with 24 CFR 983.302, is reduced below the amount of the initial rent to owner (rent to owner at the beginning of the HAP contract term). In this case, the assisted families residing in the contract units will be offered tenant-based voucher assistance.

*Amendment to Substitute Contract Units.* At the discretion of FHA and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Prior to such substitution, FHA will inspect the proposed substitute unit and must determine the reasonable rent for such unit.

*Amendment to add contract units.* At the discretion of the FHA, and provided that the total number of units in a building that will receive PBV assistance or other project-based assistance will not exceed 25 percent of the number of dwelling units (assisted or unassisted) in the building or the 20 percent of authorized budget authority as provided in 24 CFR 983.6, a HAP contract may be amended during the three-year period immediately following the execution date of the HAP contract to add additional PBV contract units in the same building. An amendment to the HAP contract is subject to all PBV requirements (e.g., rents are reasonable), except that a new PBV request for proposals is not required. The anniversary and expiration dates of the HAP contract for the additional units must be the same as the anniversary and expiration dates of the HAP contract term for the PBV units originally placed under HAP contract.

*Staged completion of contract units.* Even if contract units are placed under the HAP contract in stages commencing on different dates, there is a single annual anniversary for all contract units under the HAP contract. The annual anniversary for all contract units is the annual anniversary date for the first contract units placed under the HAP contract. The expiration of the HAP contract for all the contract units completed in stages must be concurrent with the end of the HAP contract term for the units originally placed under HAP contract.

## P. OWNER RESPONSIBILITIES

The owner is responsible for performing all of the owner responsibilities under the AHAP contract and the HAP contract. 24 CFR 982.452 (Owner responsibilities) applies. By execution of the HAP contract, the owner makes the same certifications that are made in the HAP contract under the tenant-based voucher program. These certifications include that each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the FHA, and the lease is in accordance with the HAP contract and HUD requirements, and that the rent each contract unit does not exceed rents charged by the owner for other comparable unassisted units.

*Owner maintenance and operation.* The owner must 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 FHA and in the lease with each assisted family. Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

At the discretion of the FHA, the HAP contract may also require continuing owner compliance during the HAP term with additional housing quality requirements specified by FHA (in addition to, but not in place of, compliance with the HUD-prescribed HQS). Such additional requirements may be designed to assure continued compliance with any design, architecture, or quality requirement specified in the AHAP contract.

*Remedies for HQS or other HAP contract violation.* FHA will vigorously enforce the owner's obligation to maintain contract units in accordance with the HQS and other requirements of the HAP contract. If FHA determines that a contract unit is not in accordance with HQS or other HAP contract requirement, FHA may exercise any of its remedies under the HAP contract for all or any contract units. Such remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

## Q. TENANT SELECTION

FHA may select families who are participants in the FHA's tenant-based voucher program and families who have applied for admission to the voucher program. As with the tenant based program, not less than 75 percent of the families admitted to FHA's tenant based and PBV Programs during the fiscal year from the FHA waiting list shall be extremely low-income families. The income-targeting requirements at 24 CFR 982.201(b) (2) also apply to the total of admissions to the FHA's tenant based and PBV Programs.

*Protection of In-Place Families.* The term "in-place family" means an eligible family residing in a proposed contract unit on the proposal selection date. In order to minimize displacement of in-place families, if a unit to be placed under contract that is either an existing unit or one requiring rehabilitation is occupied by an eligible family on the proposal selection date, the in-place family must be placed on the FHA's waiting list (if the family is not already on the list) and, once its continued eligibility is determined, given an absolute selection preference and referred to the project owner for an appropriately sized PBV unit in the project. (FHA may deny assistance for the grounds specified in 24 CFR 982.552 and 982.553.) Admission of such families is not subject to income-targeting under 24 CFR 982.201(b) (2) (i), and such families must be referred to the owner from the FHA's waiting list. FHA shall give such families first priority for admission to the PBV Program. This protection does not apply to families occupying the site that are not eligible to participate in the program on the proposal selection date.

*Selection from the FHA Waiting List.* Applicants who will occupy PBV units must be selected by FHA from the FHA waiting list. The FHA must select applicants from the waiting list in accordance with the policies in the FHA Administrative Plan.

FHA shall use a site-based waiting list for admission to PBV units. An applicant may be placed on both the tenant-based and project-based waiting list. At the time of application, FHA will offer

to place applicants who are listed on the tenant-based waiting list on the PBV waiting list, and vice versa.

FHA will establish criteria or preferences for occupancy of particular sites on the PBV waiting list. FHA may place families referred by the PBV owner on its PBV waiting list. In selecting families to occupy PBV units with special accessibility features for persons with disabilities, FHA will first refer families who require such features to the owner (see 24 CFR 8.26 and 100.202).

*Preference for services offered.* In selecting families, FHA will give preference to disabled families who need services offered at a particular project. The prohibition on granting preferences to persons with a specific disability at 24 CFR 982.207(b) (3) continues to apply.

The preference shall be limited to the population of 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. Disabled residents shall not be required to accept the particular services offered at the site.

*Advertisement of the Site.* The owner may advertise the site as offering services for a particular type of disability; however, the site must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project.

*Offer of PBV Assistance.* If a family refuses FHA's offer of PBV assistance, such refusal does not affect the family's position on the FHA waiting list for tenant-based assistance. If a PBV owner rejects a family for admission to the owner's PBV units, such rejection by the owner does not affect the family's position on FHA waiting list for tenant-based assistance.

FHA may not take any of the following actions against an applicant who has applied for, received, or refused an offer of PBV assistance:

- (1) Refuse to list the applicant on FHA waiting list for tenant-based assistance;
- (2) Deny any admission preference for which the applicant is currently qualified;
- (3) Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under FHA selection policy;
- (4) Remove the applicant from the waiting list for tenant-based voucher assistance.

*Tenant Screening.* FHA has no responsibility or liability to the owner or any other person for the family's behavior or suitability for tenancy. However, FHA may screen applicants for family behavior and suitability for tenancy consistent with the same procedures that are applied to the tenant-based voucher program. FHA may deny admission to an applicant based on such screening. FHA will conduct such screening of applicants in accordance with policies stated in the FHA Administrative Plan.

## R. FHA INFORMATION TO ACCEPTED FAMILY



Before a family accepts an offer of PBV assistance, FHA will give the family the same information provided in the FHA tenant-based program. This will include an oral briefing with a description of how the program works and Family and owner responsibilities, and a packet with information on how FHA determines the total tenant payment for a family, family obligations under the program; and applicable fair housing information.

*Providing Information for Persons with Disabilities.* If the family head or spouse is a disabled person, FHA will take appropriate steps to assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet, including alternative formats.

*Providing Information for Persons with Limited English Proficiency.* FHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with obligations contained in Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

## S. OWNER SELECTION OF TENANTS

During the term of the HAP contract, the owner must lease contract units only to eligible families selected and referred by FHA from the FHA waiting list.

The owner is responsible for adopting 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 perform the lease obligations. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection. The contract unit leased to each family must be appropriate for the size of the family under the FHA's subsidy standards.

*Owner Screening of Tenants.* The owner is responsible for screening and selection of the family to occupy the owner's unit. The owner is responsible for screening of families on the basis of their tenancy histories. An owner may consider a family's background with respect to such factors as:

- (1) Payment of rent and utility bills;
- (2) Caring for a unit and premises;
- (3) Respecting the rights of other residents to the peaceful enjoyment of their housing;
- (4) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- (5) Compliance with other essential conditions of tenancy;

*Providing Tenant Information to the Owner.* FHA will give the owner:

- (1) The family's current and prior address (as shown in the FHA records); and



(2) The name and address (if known to the FHA) of the landlord at the family's current and any prior address.

When a family wants to lease a dwelling unit, FHA may offer the owner other information in FHA possession about the family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. FHA will give the family a description of FHA policy on providing information to owners. FHA will give the same types of information to all owners.

## T. VACANCIES

As in the tenant-based program, FHA and the owner must make reasonable good faith efforts to minimize the likelihood and length of any vacancy. The owner must promptly notify the FHA of any vacancy or expected vacancy in a contract unit. After receiving the owner notice, FHA will make every reasonable effort to refer promptly a sufficient number of families for the owner to fill such vacancies. The owner must lease vacant contract units only to eligible families on FHA waiting list referred by the FHA.

*Reducing the Number of Contract Units.* If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the FHA to fill such vacancies), FHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.

## U. WRONG SIZED UNIT

A unit occupied by a family which is the wrong size based on family composition and PHA subsidy standards or, a unit with accessibility features that the resident family does not require and the unit is needed by a family who needs those features.

In the event of a wrong sized unit and per the FHA's approved plan:

1. For an oversized unit the FHA may apply the rent standard for the correctly sized unit:
  - (i) The utility calculation will be based on actual size of the rented unit.
  - (ii) HQS standards as to up to 2 persons per living/sleeping room and a minimum of 1 window will apply.
2. For residents in accessible units who do not require those features the resident will be offered the following options when an applicant does require those features:
  - (i) Project based voucher assistance in a different appropriate sized unit.
  - (ii) Other rental assistance (occupancy in a public housing unit).

- (iii) Tenant based voucher assistance.
- (iv) Other comparable public or private tenant based assistance (e.g., HOME program)

## V. DETERMINING AND RE-DETERMINING RENT TO OWNER

### 1. *Initial and re-determined rents.*

- (a) The amount of the initial rent to owner is established at the beginning of the HAP contract term. For rehabilitated or newly constructed housing, the AHAP contract states the estimated amount of the initial rent to owner, but the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.
- (b) The rent to owner is re-determined at the owner's request for a rent increase in accordance with this section. The rent to owner is also re-determined at such time when there is a five percent or greater decrease in the published FMR in accordance with 24 CFR 983.302.

(2) *Amount of rent to owner.* Except for certain tax credit units as provided in paragraph (c) of this section, the rent to owner must not exceed the lowest of:

- (a) An amount determined by the FHA, not to exceed 110 percent of the applicable fair market rent (or any exception payment standard approved by the Secretary) for the unit bedroom size minus any utility allowance;
- (b) The reasonable rent; or
- (c) The rent requested by the owner.

(3) *Rent to owner for certain tax credit units.*

- (a) This paragraph applies if:
  - (i) A contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986 (see 26 U.S.C. 42);
  - (ii) The contract unit is not located in a qualified census tract;
  - (iii) In the same building, there are comparable tax credit units of the same unit bedroom size as the contract unit and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
  - (iv) The tax credit rent exceeds the applicable fair market rental (or any exception payment standard) as determined in accordance with paragraph (b) of this section.

(b) In the case of a contract unit described in paragraph (3) (a) of this section, the rent to owner must not exceed the lowest of:

(i) The tax credit rent minus any utility allowance;

(ii) The reasonable rent; or

(iii) The rent requested by the owner.

(c) The "tax credit rent" is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., additional assistance such as tenant-based voucher assistance).

(d) A "qualified census tract" is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which:

(i) At least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI); or

(ii) Where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

(4) *Rent to owner for other tax credit units.* Except in the case of a tax credit unit described in paragraph (3) (a) of this section, the rent to owner for all other tax credit units is determined pursuant to paragraph (2) of this section.

(5) *Reasonable rent.* FHA shall determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent.

(6) *Use of FMRs and utility allowance schedule in determining the amount of rent to owner.*

(a) *Amounts used.*

(i) *Determination of initial rent* (at beginning of HAP contract term). When determining the initial rent to owner, FHA shall use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. At its discretion, FHA may use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract.

(ii) *Re-determination of rent to owner.* When re-determining the rent to owner, FHA shall use the most recently published FMR and FHA utility allowance schedule in effect at the time of re-determination. At its discretion, FHA may use the amounts in effect at any time during the 30-day period immediately before the re-determination date.

(b) *Exception payment standard and FHA utility allowance schedule.*

(i) Any HUD-approved exception payment standard amount under 24 CFR 982.503(c) applies to both the tenant-based and PBV Programs. HUD will not approve a different exception payment standard amount for use in the PBV Program.

(ii) FHA may not establish or apply different utility allowance amounts for the PBV Program. The same FHA utility allowance schedule applies to both the tenant-based and PBV Programs.

(7) *FHA-owned units.* For FHA-owned PBV units, the initial rent to owner and the annual re-determination of rent at the annual anniversary of the HAP contract are determined by the independent entity approved by HUD in accordance with 24 CFR 983.59. FHA will use the rent to owner established by the independent entity.

(8) The owner must request an increase in the rent to owner at the annual anniversary of the HAP contract by 90 days prior written notice to FHA. The request must be submitted in the form and manner required by FHA.

(9) FHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with all requirements of the HAP contract, including compliance with the HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

(10) *Rent decrease.* If there is a decrease in the rent to owner, as established in accordance with 24 CFR 983.301, the rent to owner must be decreased, regardless of whether the owner requested a rent adjustment.

(11) *Notice of rent re-determination.* Rent to owner is re-determined by written notice by FHA to the owner specifying the amount of the re-determined rent (as determined in accordance with 24 CFR 983.301 and 983.302). FHA notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract.

(12) *Contract year and annual anniversary of the HAP contract.*

(a) The contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

(b) The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. The adjusted rent to owner amount applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

(c) See Sec. 24 CFR 983.206(c) for information on the annual anniversary of the HAP contract for contract units completed in stages.

## W. REASONABLE RENT

(1) *Comparability requirement.* At all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent as determined by the FHA.

(2) *Re-determination.* FHA will re-determine the reasonable rent:

(a) Whenever there is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR in effect one year before the contract anniversary;

(b) Whenever FHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;

(c) Whenever the HAP contract is amended to substitute a different contract unit in the same building; and

(d) Whenever there is any other change that may substantially affect the reasonable rent.

(3) *How to determine reasonable rent.*

(a) The reasonable rent of a contract unit must be determined by comparison to rent for other comparable unassisted units.

(b) In determining the reasonable rent, FHA will consider factors that affect market rent, such as:

(i) The location, quality, size, unit type, and age of the contract unit; and

(ii) Amenities, housing services, maintenance, and utilities to be provided by the owner.

(4) *Comparability analysis.*

(a) For each unit, the FHA comparability analysis must use at least three comparable units in the private unassisted market, which may include comparable unassisted units in the premises or project.

(b) FHA will retain a comparability analysis that shows how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units.

(c) The comparability analysis may be performed by FHA staff or by another qualified person or entity. A person or entity that conducts the comparability analysis and any FHA staff or contractor engaged in determining the housing assistance payment based on the comparability analysis may not have any direct or indirect interest in the property.

(5) *Owner certification of comparability.* By accepting each monthly housing assistance payment from FHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give FHA information requested by FHA on rents charged by the owner for other units in the premises or elsewhere.

(6) *Determining reasonable rent for FHA-owned units.*

(a) For FHA- owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with Sec. 983.58, rather than by FHA. Reasonable rent must be determined in accordance with this section.

(b) The independent entity must furnish a copy of the independent entity determination of reasonable rent for FHA-owned units to the FHA and to the HUD field office where the project is located.

## **X. OTHER SUBSIDY: EFFECT ON RENT TO OWNER**

(1) *General.* In addition to the rent limits established in accordance with 24 CFR 983.301 and .302, the following restrictions apply to certain units.

(2) *HOME.* For units assisted under the HOME program, rents may not exceed rent limits as required by the HOME program (24 CFR 92.252).

(3) *Subsidized projects.*

(a) This paragraph (3) applies to any contract units in any of the following types of federally subsidized project:

(i) An insured or non-insured Section 236 project;

(ii) A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;

(iii) A Section 221(d) (3) below market interest rate (BMIR) project;

- (iv) A Section 515 project of the Rural Housing Service;
- (v) A project receiving low-income housing tax credits;
- (vi) Any other type of federally subsidized project specified by HUD.

(b) The rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program.

(4) *Combining subsidy.* Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements. See 24 CFR 983.55.

(5) *Other subsidy: FHA discretion to reduce rent.* At its discretion, FHA may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

(6) *Prohibition of other subsidy.* For provisions that prohibit PBV assistance to units in certain types of subsidized housing, see 24 CFR 983.54.

#### A. FHA PAYMENT TO OWNER FOR OCCUPIED UNIT [24 CFR 983.351]

##### (1) *When payments are made.*

(a) During the term of the HAP contract, FHA shall make housing assistance payments to the owner in accordance with the terms of the HAP contract. The payments shall be made for the months during which a contract unit is leased to and actually occupied by an eligible family.

(b) Except for discretionary vacancy payments in accordance with 24 CFR 983.352, FHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

(2) *Monthly payment.* Each month, FHA shall make a housing assistance payment to the owner for each contract unit that complies with the HQS and is leased to and occupied by an eligible family in accordance with the HAP contract.

(3) *Calculating amount of payment.* The monthly housing assistance payment by FHA to the owner for a contract unit leased to a family is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

(4) *Prompt payment.* The housing assistance payment by FHA to the owner under the HAP contract must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and FHA agree on a later date.



(5) *Owner compliance with contract.* To receive housing assistance payments in accordance with the HAP contract, the owner must comply with all the provisions of the HAP contract. Unless the owner complies with all the provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

## B. VACANCY PAYMENTS

(1) *Payment for move-out month.* If an assisted family moves out of the unit, the owner may keep the housing assistance payment payable for the calendar month when the family moves out (“move-out month”). However, the owner may not keep the payment if FHA determines that the vacancy is the owner's fault.

(2) *Vacancy payment at FHA discretion.*

(a) At the discretion of FHA, the HAP contract may provide for vacancy payments to the owner (in the amounts determined in accordance with paragraph (2) (b) of this section) for a FHA-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.

(b) The vacancy payment to the owner for each month of the maximum two-month period will be determined by FHA, 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). Any vacancy payment may cover only the period the unit remains vacant.

(c) FHA may make vacancy payments to the owner only if:

(i) The owner gives FHA prompt, written notice certifying that the family has vacated the unit and containing the date when the family moved out (to the best of the owner's knowledge and belief);

(ii) The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

(iii) The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

(iv) The owner provides any additional information required and requested by FHA to verify that the owner is entitled to the vacancy payment.

(d) The owner must submit a request for vacancy payments in the form and manner required by FHA and must provide any information or substantiation required by FHA to determine the amount of any vacancy payment.

## C. TENANT RENT; PAYMENT TO OWNER

### (1) *FHA determination.*

- (a) The tenant rent is the portion of the rent to owner paid by the family. FHA determines the tenant rent in accordance with HUD requirements.
- (b) Any changes in the amount of the tenant rent will be effective on the date stated in a notice by FHA to the family and the owner.

### (2) *Tenant payment to owner.*

- (a) The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance).
- (b) The amount of the tenant rent as determined by FHA is the maximum amount the owner may charge the family for rent of a contract unit. The tenant rent is payment for all housing services, maintenance, equipment, and utilities to be provided by the owner without additional charge to the tenant, in accordance with the HAP contract and lease.
- (c) The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by FHA. The owner must immediately return any excess payment to the tenant.
- (d) The family is not responsible for payment of the portion of the rent to owner covered by the housing assistance payment under the HAP contract. The owner may not terminate the tenancy of an assisted family for non-payment of FHA housing assistance payment.

### (3) *Limit of FHA responsibility.*

- (a) FHA is responsible only for making housing assistance payments to the owner on behalf of a family in accordance with the HAP contract. FHA is not responsible for paying the tenant rent, or for paying any other claim by the owner.
- (b) FHA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the tenant rent or to pay any other claim by the owner. FHA may not make any payment to the owner for any damage to the unit, or for any other amount owed by a family under the family's lease or otherwise.

### (4) *Utility reimbursement.*

(a) If the amount of the utility allowance exceeds the total tenant payment, FHA shall pay the amount of such excess as a reimbursement for tenant-paid utilities (“utility reimbursement”) and the tenant rent to the owner shall be zero.

(b) FHA either may pay the utility reimbursement to the family or may pay the utility bill directly to the utility supplier on behalf of the family.

(c) If FHA chooses to pay the utility supplier directly, the FHA must notify the family of the amount paid to the utility supplier.

#### D. OTHER FEES AND CHARGES

##### *(1) Meals and supportive services*

(a) Except as provided in paragraph (1)(b) of this section, the owner may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

(b) In assisted living developments receiving project-based assistance, owners may charge tenants, family members, or both for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

*(2) Other charges by owner.* The owner may not charge the tenant or family members extra amounts for items customarily included in rent in the local market or provided at no additional cost to unsubsidized tenants in the premises.

#### E. LEASES AND HOUSING ASSISTANCE PAYMENTS CONTRACTS

1. If the owner uses a standard lease form for rental to unassisted tenants, the lease for a voucher-assisted tenant must be in such standard form but it must be for a one-year initial term and it must include the HUD tenancy addendum. The lease must specify the name(s) of the owner(s) and the tenant, the address of the unit rented, the term of the lease including any provision for renewal, the amount of the tenant rent to owner, a listing of what services, maintenance, equipment and utilities to be provided by the owner and the amount of any charges that are for food, furniture or supportive services.

2. The Housing Assistance Payments contract between the owner and FHA will be for an initial term of up to 20 years, or such longer term permitted by HUD regulations then in effect. After the initial term, FHA may agree to extend the term of the contract for an additional term of up to 20 years, or such longer term permitted by HUD regulations then in effect. To be eligible for an extension, the property and owner must be in compliance with program rules and applicable HUD statutes and regulations. The length of the extension

will be negotiated with the owner and the form will be subject to any HUD prescribed conditions at the time of the extension.

3. An owner may request an increase to the rent at the annual anniversary of the HAP contract by a 60 day written notice to FHA. See Administrative Plan for further information regarding rent increase guidelines for the Housing Choice Voucher program.

## F. CONTINUED PARTICIPATION

1. A family may choose to move out of a PBV unit with continued assistance any time after 12 months of initial occupancy. If a family moves before their completion of 12 months of occupancy in their PBV unit, they are terminated from the Housing Choice Voucher program. Program termination in this context includes termination from the PBV program as well as from the opportunity to convert to a tenant-based voucher.

2. If a PBV tenant is determined no longer eligible for the Housing Choice Voucher PBV program, they are given a minimum of 30 days to vacate a unit. If the family does not vacate the unit, FHA must remove that PBV unit from the HAP contract or substitute a similar unit in the building. A PBV tenant who is terminated from the PBV program is given a minimum of 30 days' notice of the termination and must vacate the unit on the effective date of the termination.

3. If the family receives no rent assistance for six months (that is, if the family's income remained at a level where their Total Tenant Payment [TTP] is equal to or exceeds the gross rent for the unit), the family will be required to vacate the unit. FHA will notify the family at least sixty days before the six months deadline that they must vacate the unit. If the family does not vacate the unit at the end of the six months, FHA must remove the unit from the HAP contract or substitute a similar unit in the same complex.

4. If FHA determines, at annual recertification, that the family is occupying a wrong size unit or determines anytime that the family is occupying a unit with accessibility features that the family does not require but another family does require, FHA will offer continued assistance in the following order:

- a. An appropriate unit in another PBV unit either in the same building or another PBV assisted building.
- b. Tenant based assistance if the family has been a PBV participant for at least 12 months.
- c. Other project-based assistance.

5. For families residing in units that provide qualifying supportive services, as detailed in the HAP contract (see paragraph D. 1. in this chapter), the project must verify annually that at least one family member in each such unit receives supportive services. These services

do not have to be provided by the project or at the project, but must comply with the terms of the HAP contract.

To verify the receipt of services, the project must use the format and procedures prescribed by FHA and notify FHA whether or not each family is in compliance. If a family, without good cause, fails to participate in at least one of the qualifying supportive services, as detailed in the HAP contract, FHA will determine that the family is no longer eligible to participate in the program (see paragraph F. 2. in this chapter).

## XL. Appendix “A” Definitions

❖ = Notes

Absorption	In portability, the point at which a receiving HA stops billing the initial HA for assistance on behalf of a portability family.
Adjusted Family Income	<p>Adjusted Family Income is the income on which total tenant payment is to be based and means the Total Annual Income less the following allowances:</p> <ul style="list-style-type: none"> <li>• A deduction of \$480.00 for each member of the family (other than head of household or spouse) who is: <ul style="list-style-type: none"> <li>○ Seventeen (17) years of age or younger or</li> <li>○ Who is eighteen (18) years of age or older and a verified full-time student and/or</li> <li>○ Is disabled or handicapped according to this Section.</li> <li>○ A deduction of dollar amounts anticipated to be paid for the care of children (including foster children) less than thirteen (13) years of age where care is necessary to enable a family member to be gainfully employed or to further his/her education. The dollar amount must be verified and reflect reasonable charges and cannot exceed the amount of income from employment (if employed).</li> </ul> </li> <li>• A deduction of \$400.00 for Elderly Family whose head, spouse or sole member is sixty-two (62) years of age or older and/or is handicapped or disabled according to this Section.</li> <li>• A deduction for any elderly family: <ul style="list-style-type: none"> <li>○ That has no Handicapped Assistance Expense, an allowance for medical expenses equal to the amount by which the medical expense shall exceed three (3%) percent of Total Annual Family Income.</li> <li>○ That has Handicapped Assistance Expenses greater than or equal to three (3%) percent of Total Annual Family Income, an Allowance for Handicapped Assistance computed in accordance with paragraph E of this Section, plus an allowance for medical expenses that is equal to the Family's medical expenses.</li> <li>○ That has Handicapped Assistance Expenses that are less than three (3%) percent of Total Annual Family Income, an allowance for combined Handicapped Assistance expense and medical expense that is equal to the amount by which the sum of these expenses exceeds three (3%) percent of Total Annual Family Income. Expenses used to compute the deduction cannot be compensated for nor covered by insurance.</li> </ul> </li> <li>• A deduction for any family that is not an elderly family but has a handicapped or Disabled member other than the head of household or spouse, Handicapped Assistance Expense in excess of three (3%) percent of Total Annual Family Income, but this allowance may not exceed the employment received by family members who are eighteen (18) years of age or older as a result of the Assistance to the Handicapped or Disabled person.</li> </ul> <p><b><u>If the Total Annual Income less the above allowances result in a rent that is less than the established minimum rent, the resident rent will be established at the HA established minimum rent.</u></b></p>
Administrative Fee	Fee paid by HUD to the HA for administration of the program and will include hard-to-house fees paid for moves by families with three or more minors, and extra counseling money that may be authorized by HUD.
Administrative Fee Reserve	(formerly “operating reserve”) Account established by HA from excess administrative fee income. HA administrative fees may only be used to cover costs incurred to perform HA

	administrative responsibilities for the program in accordance with HUD regulations and requirements.
Administrative Plan	The administrative plan describes HA policies for administration of the tenant-based programs. This document is the administrative plan for the HA.
Admission	The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.
Adult	An adult is a person who has reached his/her 19th birthday or 18 years of age and married (not common law), who has been relieved of the disability of non-age by the juvenile court, or who has been convicted of a crime as an adult under any Federal, State or tribal law. Only persons who are adults shall be eligible to enter into a lease agreement for occupancy.
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)	A written contract between HUD and an HA. Under the contract HUD agrees to provide funding for operation of the program, and the HA agrees to comply with HUD requirements for the program.
Annual Income	<p>Annual income means all amounts, monetary or not, which:</p> <ul style="list-style-type: none"> <li>• Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or</li> <li>• Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and</li> <li>• Which are not specifically excluded in paragraph (c) of this section,</li> <li>• Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.</li> </ul> <p>Total Annual Family Income includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>• The full amount, before any payroll deduction, of wages and salaries, and overtime pay, including compensation for personal services (such as commissions, fees, tips and bonuses);</li> <li>• 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 other 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.</li> <li>• Interest, dividends and other net income of any kind from real or personal property. (For this purpose, expenditures for amortization of capital indebtedness and an allowance for depreciation of capital assets shall not be deducted to determine the net income from real or personal property). All allowance for depreciation is permitted only as authorized in Paragraph B 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 \$5,000.00, 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.</li> <li>• The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefit and other similar types of periodic receipts, including a lump sum payment for the delayed start of a periodic payment; (Excluding Lump Sum Supplemental Security Income (SSI) and Lump Sum Social Security Benefits (SS))</li> <li>• Payments in lieu of earnings, such as unemployment and disability compensation, social security benefits, workmen's compensation and severance pay, but see Paragraph 55-C in this section.</li> <li>• Welfare assistance: (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</li> </ul>



	<p>definition at 45 CFR 260.31; and (B) are not otherwise excluded under definition of income exclusions in this section. (ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of: (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus (B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.</p> <ul style="list-style-type: none"> <li>• 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. If the payments actually received are different than the determined amount, rent can be adjusted in accordance with Section III D of the dwelling lease.</li> <li>• All regular pay, special pay, and allowances of a member of the Armed Forces (except special pay for exposure to hostile fire).</li> </ul> <hr/> <p><b>If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period.</b></p> <hr/> <ul style="list-style-type: none"> <li>• Lump Sum Payments: <ul style="list-style-type: none"> <li>○ Participants that receive lump sum payments that are included as income and fall in the categories listed above, (Excluding Lump Sum Supplemental Security Income (SSI) and Lump Sum Social Security Benefits (SS)), must report the income to the Section 8 Coordinator as soon as possible but no later than ten (10) calendar days after receipt of the funds and the applicable portion of the payment that is due as excess subsidy is due fourteen (14) days after the HA notifies the family of the amount due.</li> </ul> </li> <li>• Unreported Income: <ul style="list-style-type: none"> <li>○ If a participant fails to report income the assistance will be terminated under the terms of the voucher. If the act is determined by the HA to be intentional, the tenant will be obligated to pay the applicable portion of the subsidy for any and all unreported income. If the unreported income was unintentional by the participant the participant will be billed for the amount due the HA and the amount will be payable within fourteen (14) days. If the payment cannot be made in one payment, the participant may request the HA to approve a repayment schedule. Any repayment agreement must be in writing and signed by the participant and a HA representative. The HA has the sole discretion as to whether or not to enter into a repayment agreement and shall consider circumstances such as fraud and/or mistake in making the decision.</li> </ul> </li> </ul>
Applicant	A person or a family that has applied for admission to the program but is not yet a participant in the program.
Area of Operation	The jurisdiction of the HA as described in applicable State law and the HA's Articles of Incorporation.
Assets	Assets mean cash (including checking accounts), stocks, bonds, savings, equity in real property, or the cash value of life insurance policies. Assets do not include the value of personal property such as furniture, automobiles, and household effects or the value of business assets. IMPORTANT: See the definition of Net Family Assets, for assets used to compute annual income. (See 24 CFR 5.603 for definition of Net Family Assets)
Care Attendant	A person that regularly visits the unit of a HA resident to provide supportive or medical services. Care attendants are not live-in aides, since they have their own place of residence

	(and if requested by HA must demonstrate separate residence) and do not live in the public housing unit. Care attendants have no rights of tenancy.
Catastrophic Involuntary Displacement	Displacement that may be caused by fire, acts of nature
Child	A member of the family, other than the family head or spouse, who is under 18 years of age.
Child Care Expenses	<p>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 (which shall be documented by the family to the satisfaction of the HA), 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 childcare, and, in the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of income received from such employment. The reasonable amount of charges is determined by the HA, by conducting surveys of local childcare providers.</p> <hr/> <p><b>If the Total Annual Income less the above allowances result in a rent that is less than the established minimum rent, the tenant rent will be established at the HA established minimum rent.</b></p> <hr/>
Child Custody	<ul style="list-style-type: none"> <li>• The applicant/participant must have primary custody of the child.</li> <li>• The applicant/participant must provide sufficient evidence that the child would reside with the Section 8 participant.</li> </ul> <hr/> <p><b>The same child cannot be claimed by more than one applicant.</b></p> <hr/>
Citizen	A citizen or national of the United States.
Co-head of Household	A household where two persons are held responsible and accountable for the family, and where each co head contributes to the rent.
Common Space	In shared housing: Space available for use by the assisted family and other occupants of the unit.
Congregate Housing	Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.
Contiguous Metropolitan Statistical Area (MSA)	In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial HA is located.
Continuously Assisted	An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Section 8 program.
Contract Authority	The maximum annual payment by HUD to an HA for a funding increment.
Cooperative Housing (Mutual Housing)	Housing owned by a non-profit 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.
Covered Person	For the purposes of screening and terminating participation for criminal activity, a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
Dependent	A member of the household, other than head, spouse, sole member, foster child, or Live-in Aide, who is under 18 years of age, or 18 years of age or older and disabled, or a full-time student, and qualifies for a \$480 deduction when computing income based rent. [24 CFR 5.603] An unborn child shall not be considered a dependent.
Disabled Family	A family whose head including co-head, spouse, or sole member is a person with disabilities. (Person with disabilities is defined later in this section.) The term includes two or more persons with disabilities living together, and one or more such persons living with one or more persons including live-in aides determined to be essential to the care and well-being of the person or persons with disabilities. A disabled family may include persons with disabilities who are elderly. [24 CFR 5.403]
Disabled Person	(See Handicapped Person)
Displaced Family	A person, or family, displaced by governmental action, or 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.

Displaced Person	A person displaced by government action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise recognized pursuant to Federal disaster relief laws. This definition is used for eligibility determinations only. It should not be confused with the former Federal preference for involuntary displacement. [(42 USC 1437a(b)(3)]
Divestiture Income	Imputed income from assets, including business assets, disposed of by applicant or resident in the last two years at less than fair market value. (See the definition of Net Family Assets [24 CFR 5.603] in this section.)
Domicile	The legal residence of household head or spouse as determined in accordance with State and local law.
Drug	A controlled substance as defined in the Controlled Substances Act. [24 CFR 5.100]
Drug-related Criminal Activity	The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell distribute or use the drug. [24 CFR 5.100]
Elderly Family	A family whose head including co-head or spouse (or sole member) is at least 62 years of age. It may include two or more elderly persons living together, and one or more such persons living with one or more persons, including live-in aides, determined to be essential to the care and well-being of the elderly person or persons. An elderly family may include elderly persons with disabilities and other family members who are not elderly. [24 CFR 5.403]
Elderly Person	A person who is at least 62 years of age. [42 USC 1437a(b)(3)]
Enterprise Income Verification (EIV)	A computerized Social Security Number matching system utilized to obtain income information.
Evidence Of Citizenship or Eligible Immigration Status	The documents that must be submitted to evidence citizenship or eligible immigration status.
Extremely Low Income Family	A Family whose Annual Income does not exceed 30% of the higher of 30% of the Area Median Income or the Federal poverty level. Where the higher of 30% of the Area Median Income or the Federal poverty level exceeds the Very Low-Income (VLI) limit, the ELI limit is reduced to equal the VLI limit as published by HUD. This effects the targeting requirements of 75% of new admissions to the housing choice voucher program.
Fair Market Rent (FMR)	The rent, including the cost of utilities (except telephone), that would be required to be paid in the housing market area to obtain privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. FMRs for existing housing are established by HUD for housing units of varying sizes (number of bedrooms), and are published in the Federal Register in accordance with 24 CFR, part 888.
Familial Status	A single pregnant woman and individuals in the process of obtaining custody of any individual who has not attained the age of 18 years are processed for occupancy the same as single persons. Individuals in the process of obtaining custody of any individual who has not attained the age of 18 years are only entitled to a one-bedroom unit. However, a single pregnant woman must be treated as a 2-person family to determine subsidy standard. Once custody is obtained, the family's subsidy standard will be redetermined and authorized to transfer as outlined in the Transfer Section if larger unit is required.
Family	<p>Included, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender indemnity, or marital status:</p> <p>A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person:</p> <ul style="list-style-type: none"> <li>○ A group of persons residing together, and such group includes, but is not limited to:</li> <li>○ A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family)</li> <li>• An elderly family</li> <li>• A near-elderly family</li> <li>• A disabled family</li> <li>• A displaced family</li> <li>• And the remaining member of a tenant family</li> </ul>

	<p><b>By definition, a family must contain a competent adult of at least 19 years of age or 18 years of age and married (not common law) to enter into a contract and capable of functioning as the head of the household. If an individual is 18 and qualifies under the definition of family by being married, the head of household and the spouse must be parties to the lease, if both are residing in the premises.</b></p> <p>The term family also includes the following terms defined in this Section:</p> <ul style="list-style-type: none"> <li>• Elderly family</li> <li>• Near elderly family</li> <li>• Disabled family</li> <li>• Displaced person</li> <li>• Single person</li> <li>• Remaining member of a tenant family,</li> <li>• A foster care arrangement, or a kinship care arrangement</li> </ul> <p>Other persons, including members temporarily absent (e.g. a child temporarily placed in foster care or a student temporarily away at college), may be considered a part of the applicant family's household if they are living or will live regularly with the family. [24 CFR § 5 and 960]</p> <ul style="list-style-type: none"> <li>• Live-in Aides may also be considered part of the applicant family's household. However, live-in aides are not family members and have no rights of tenancy or continued occupancy.</li> <li>• Foster Care Arrangements include situations in which the family is caring for a foster adult, child, or children in their home who have been placed there by a public child placement agency, or a foster adult or adults placed in the home by a public adult placement agency. For purposes of continued occupancy: the term family also includes the remaining member of a resident family with the capacity to execute a lease.</li> </ul>
Family Self-Sufficiency (FSS) Program	The program established by an HA to promote self-sufficiency of assisted families, including the provision of supportive services (42 U. S. C. 1437u). Reference 24 CFR, part 984.
Family Share	The portion of rent and utilities paid by the family.
Family Unit Size	The appropriate number of bedrooms for a family. Family unit size is determined by the HA under the HA subsidy standards.
Foster Children	<p>With the prior written consent of the Landlord, a foster child may reside on the premises.</p> <p>The factors considered by the Landlord in determining whether or not consent is granted may include:</p> <ul style="list-style-type: none"> <li>• Whether the addition of a new occupant may require a transfer of the family to another unit, and whether such units are available.</li> <li>• The Landlord's obligation to make reasonable accommodation for handicapped persons.</li> </ul>
Full -Time Student	A member of a family (other than the head of household or spouse) who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. Educational institution shall include but not be limited to: college, university, secondary school, vocational school, or trade school [24 CFR 5.603]. The attended educational institution will supply verification.
Funding Increment	Each commitment of budget authority by HUD to an HA under the consolidated ACC for the HA 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-aid).
Guest	A guest is a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of the lease apply to a guest as so defined.

Handicapped Assistance Expense	Reasonable expenses that are anticipated, during the period for which Total Annual Family Income is computed, for attendant care and auxiliary apparatus for a Handicapped or Disabled family member and that are necessary to enable a family member (including the Handicapped or Disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.
Handicapped Person And/Or Disabled Person	<p>A person having a physical or mental impairment which:</p> <ul style="list-style-type: none"> <li>• Is expected to be of long continued and indefinite duration,</li> <li>• Substantially impedes his/her ability to live independently, and</li> <li>• Is of such a nature that such disability could be improved by more suitable housing conditions.</li> </ul> <hr/> <p><b>All three conditions must be met to qualify as handicapped.</b></p> <hr/> <p>A person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423) or in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 USC 6001(7)), or is handicapped as defined below:</p> <ul style="list-style-type: none"> <li>• Section 223 of the Social Security Act defines disability as: <ul style="list-style-type: none"> <li>○ "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 twelve (12) months; or</li> <li>○ In the case of any individual who has attained the age of fifty-five (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 abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time."</li> </ul> </li> <li>• Section 102(5), of the Development Disabilities Services and Facilities Construction Amendments of 1970 defines disability as: <ul style="list-style-type: none"> <li>○ "A disability attributable to mental retardation, cerebral palsy, epilepsy or another neurological condition of an individual found by the Secretary (of Health and Human Resources) to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen (18), which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual."</li> </ul> </li> </ul> <hr/> <p><b>No individual shall be considered to be a person with a disability for purposes of eligibility for low-income housing solely on the basis of any drug or alcohol dependency.</b></p> <hr/>
Hazardous Duty Pay	Pay to a family member in the Armed Forces away from home and exposed to hostile fire.
Head Of Household	The adult member of the family (identified by the family) who is the head of the household for purposes of determining income eligibility and rent. Also, the head of household is primarily responsible and accountable for the family, particularly in regard to family obligations.
Homeless Family	<p>Any individual or family who:</p> <ul style="list-style-type: none"> <li>• Lacks a fixed, regular, and adequate nighttime residence;</li> <li>• Has a primary nighttime residence that is: <ul style="list-style-type: none"> <li>○ A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing or housing for the mentally ill);</li> <li>○ An institution that provides a temporary residence for individuals intended to be institutionalized; or</li> <li>○ A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.</li> </ul> </li> </ul>

	<p>A homeless family does not include:</p> <ul style="list-style-type: none"> <li>Any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State Law; or</li> <li>Any individual who is a Single Room Occupant that is not considered substandard housing.</li> </ul>
Household	The family and a HA-approved Live-in Aide.
Housing Agency	Housing Agency (Public Housing Agency (PHA), PHA and HA are the same thing) 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.
Housing Assistance Payment (HAP)	<p>The monthly assistance payment made by the HA. The total assistance payment consists of:</p> <ul style="list-style-type: none"> <li>A payment to the owner for rent to the owner under the family's lease.</li> <li>An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement."</li> </ul> <hr/> <p><b>The HA may elect to pay the appropriate amount directly to the utility provider.</b></p> <hr/>
Housing Assistance Payment Contract	A written contract between an HA and an owner, in the form prescribed by HUD, in which the HA agrees to make housing assistance payments to the owner on behalf of an eligible family.
Housing Quality Standards (HQS)	The HUD minimum quality standards for housing assistance under the tenant-based programs.
HUD - Housing and Urban Development	The U. S. Department of Housing and Urban Development.
HUD Requirements	HUD requirements for the Section 8 program. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.
Income Exclusions	<p>Annual Income does not include such temporary, non-recurring or sporadic income as the following:</p> <ul style="list-style-type: none"> <li>Income from employment of children (including foster children) under the age of eighteen (18).</li> <li>Payment 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).</li> <li>Kinship care payments when foster children are placed with relatives.</li> <li>Lump sum additions to family assets, such as, inheritances, insurance payments, (including payments under health and accident insurance and workmen's compensation), capital gains, and settlements for personal or property losses (except payment in lieu of earnings).</li> <li>Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.</li> <li>Income of a live-in aide (as defined in this policy).</li> <li>Any financial assistance received for mandatory fees and charges (in addition to tuition). Notice PIH 2016-05.</li> <li>The special pay to a family member serving in the armed forces who is exposed to hostile fire.</li> <li>Amounts received under training programs funded by HUD.</li> <li>Amounts received by a disabled person 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).</li> <li>Amounts received by a participant in other publicly assisted programs which is specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program.</li> <li>Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the HA, on a part-time basis, that enhances the quality of life in public housing. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination.</li> </ul>



	<p>No Resident may receive more than one such stipend during the same period of time.</p> <ul style="list-style-type: none"> <li>○ Incremental earnings and benefits resulting to any family member from participation in State or local employment training programs (including training programs not affiliated with a local government) in 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.</li> <li>○ Temporary, nonrecurring, or sporadic income (including gifts).</li> <li>○ Reparation payments paid by a foreign government pursuant to claims under the laws of that government by persons who were persecuted during the Nazi era.</li> <li>○ Earning in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse).</li> <li>○ Adoption assistance payments in excess of \$480 per adopted child.</li> <li>○ Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.</li> <li>○ 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.</li> <li>○ 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 costs of services and equipment to help keep the developmentally disabled family member at home.</li> <li>○ The value of the allotment provided to an eligible household under the Food Stamp Act of 1977.</li> <li>○ Payments to volunteers in programs pursuant to the Domestic Volunteers Service Act of 1973.</li> <li>○ Payments received under the Alaska Native Claims Settlement Act.</li> <li>○ Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes.</li> <li>○ Payments or allowances made under the Department of Health and Human Services Low Income Home Energy Assistance Program.</li> <li>○ Payments received under programs funded in whole or in part under the Job Training Partnership Act. Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Work Force Investment Act of 1998.</li> <li>○ Income derived from the disposition of funds to the Grand River band of Ottawa Indians.</li> <li>○ The first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interest of individual Indians in trust or restricted lands, including the first \$2,000.00 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands.</li> <li>○ Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under Bureau of Indian Affairs Student Assistance Programs.</li> <li>○ Payments received from Programs funded under Title V of The Older Americans Act of 1985.</li> <li>○ Payments received on or after January 1, 1989, from the Agent Orange settlement fund or any other fund established pursuant to the settlement. In Re: Agent Product Liability Litigation M.D.L. No. 381 (EDNY)</li> <li>○ Payments received under the Maine Indian Claims Settlement Act of 1980.</li> <li>○ The value of any childcare 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.</li> <li>○ Earned Income Tax Credit (EITC) refund payments received on or after January 1, 1991.</li> </ul>
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	<ul style="list-style-type: none"> <li>○ Payments by the Indian Claims Commission to the confederated tribes and bands of the Yakima Indian Nation or the Apache Tribe of Mescalero Reservation.</li> <li>○ Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990.</li> <li>○ Any allowance paid under the provisions of 38 USC 1805 to a child suffering from spina bifida who is the child of a Vietnam Veteran.</li> <li>○ Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the costs 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.</li> <li>○ Allowances, earnings, and payments to individuals participating in programs under the Work Force Investment Act of 1998.</li> <li>○ Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.</li> <li>○ Twelve Month Exclusions (Self Sufficiency incentives)(Disabled Families Only):</li> <li>○ The earnings and benefits to any resident resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of the U.S. Housing Act of 1937, and the Quality Housing and Work Responsibility Act of 1998 (referred to as the 1998 Act) or any comparable Federal, State, or local law during the exclusion period. For purposes of this paragraph, the following definitions apply:</li> <li>○ Comparable Federal, State or Local Law means a program providing employment training and supportive services that: <ul style="list-style-type: none"> <li>○ Are authorized by a federal, state or local law;</li> <li>○ Are funded by federal, state or local government;</li> <li>○ Are operated or administered by a public agency;</li> <li>○ Has as its objective to assist participants in acquiring job skills; and/or</li> <li>○ If applicable, is a participant in the HA Family Self Sufficiency Program.</li> </ul> </li> <li>○ Exclusion period means the period during which the resident participates in a program described in this section, plus 12 months from the date the resident begins the first job acquired by the resident after completion of such program that is not funded by public housing assistance under the U.S. Housing Act of 1937 and the 1998 Act. Amount previously being received, including TANF, will continue to be counted as annual income.</li> <li>○ Earnings and benefits mean the incremental earnings and benefits resulting from a qualifying employment-training program or subsequent job.</li> <li>○ In addition to the training exclusion listed above, the 1998 Act excludes the income for 12 months of a family member who was previously unemployed for one or more years, which is defined as a minimum of 12 consecutive months. This includes a person who has earned income during the previous 12 months but the income was no more than 10 hours of work per week for 50 weeks at or below the established minimum wage. The 1998 Act also excludes the income for 12 months for any resident who received assistance under the Temporary Assistance for Needy Families (TANF) program in the last six (6) months. The TANF funding received must be a minimum of \$500 over a six-month period. A representative from the TANF agency must verify that the resident is or was receiving TANF benefits within the last six months. The six month period will start on the day the resident reports the income to the HA. Also, the 1998 Act excludes for 12 months the income resulting in the participation of a family member in the HA Family Self Sufficiency Program, if applicable to the HA.</li> <li>○ Earned Income Disregard <ul style="list-style-type: none"> <li>○ Once a disabled family member is determined to be eligible for the EID, the 24-calendar month period starts;</li> <li>○ If the disabled family member discontinues the employment that initially qualified the family for the EID, the 24-calendar month period continues;</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"> <li>○ During the 24–calendar month period, EID benefits are recalculated based on changes to disabled family member income and employment (no change from current practice);</li> <li>○ During the first 12–calendar month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the PHA must exclude from annual income of the family at least 50 percent of any increase in income of such disabled family member as a result of employment over the family member’s income before the qualifying event (i.e., the family member’s baseline income);</li> <li>○ The EID benefit is limited to a lifetime 24-month period for the qualifying disabled family member;</li> <li>○ At the end of the 24 months, the EID ends regardless of how many months were “used.”</li> <li>○ During the 12-month period beginning when the disabled family member first qualifies for a disallowance, the HA must exclude from Annual Income any increase in income as a result of employment. For the 12 months following the exclusion period, 50% of the income increase shall be excluded.</li> <li>○ The disallowance of increased income under this section is only applicable to current residents and will not apply to applicants who have begun working prior to admission (unless their earnings are less than would be earned working ten hours per week at minimum wage, under which they qualify as unemployed).</li> </ul> <p><b>NOTE: FAMILIES THAT CURRENTLY BENEFIT FROM THE EID, OR WHO BECOME ELIGIBLE PRIOR TO THE EFFECTIVE DATE OF CHANGES TO THE ACOP/ADMIN. PLAN/PHA PLAN, ARE ELIGIBLE TO RECEIVE THE EID BENEFIT FOR 24 MONTHS OVER A 48-MONTH PERIOD, AS WAS IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS PROVISION.</b></p> <ul style="list-style-type: none"> <li>○ Inapplicability to admission. The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program.</li> <li>○ If a person is employed prior to admission they will not qualify for this income exclusion.</li> <li>○ If a family member begins employment after admission they may be eligible for income exclusion.</li> </ul>
Infant	A child under the age of two years.
Initial Contract Rent	In the certificate program, the contract rent at the beginning of the initial lease term.
Initial HA	In portability, the term refers to both: <ul style="list-style-type: none"> <li>• An HA that originally selected a family that subsequently decides to move out of the jurisdiction of the selecting HA.</li> <li>• An HA that absorbed a family that subsequently decides to move out of the jurisdiction of the absorbing HA.</li> </ul>
Initial Lease Term	The initial term of the assisted lease. The initial lease term must be for at least one year.
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 initial lease term.
INS	The U. S. Immigration and Naturalization Service.
Interim Redetermination of Rent	Changes of rent between admissions and reexaminations and the next succeeding reexamination.
Involuntary Displacement	Families that meet the definition of involuntary displaced qualify for a preference in the selecting applicants for admission to public housing.
Jurisdiction	The area in which the HA has authority under State and local law to administer the program.

Lease	<p>A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the HA.</p> <hr/> <p><b>In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement established the conditions for occupancy of the member's cooperative dwelling unit by the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the HA. For purposes of part 982, the cooperative is the Section 8 "owner" of the unit, and the cooperative member is the Section 8 "tenant."</b></p> <hr/>
Lease Addendum	In the lease between the tenant and the owner, the lease language required by HUD.
Live-in Aide	<p>A person who resides with an elderly person(s), near elderly person(s) or person(s) with disabilities and who:</p> <ul style="list-style-type: none"> <li>• Is determined by HA to be essential to the care and well being of the person(s);</li> <li>• Is not obligated to support the family member; and</li> <li>• Would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403]. HA policy on Live-in Aides stipulates that: <ul style="list-style-type: none"> <li>○ Before a Live-in Aide may be moved into a unit, a third-party verification must be supplied that establishes the need for such care and the fact that the live-in aide is qualified to provide such care; <ul style="list-style-type: none"> <li>▪ Move in of a Live-in Aide must not result in overcrowding of the existing unit according to the maximum-number-of-persons-per-unit standard (although, a reasonable accommodation for a resident with a disability may be to move the family to a larger unit);</li> <li>▪ Live-in Aides have no right to the unit as a remaining member of a resident family;</li> <li>▪ Relatives who satisfy the definitions and stipulations above may qualify as Live-in Aides, but only if they sign a statement prior to moving in relinquishing all rights to the unit as the remaining member of a resident family;</li> <li>▪ A Live-in Aide will be required to meet HA's screening requirements with respect to past behavior especially: <ul style="list-style-type: none"> <li>✚ A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at present or prior residences that may adversely affect the health, safety, or welfare of other tenants or neighbors;</li> <li>✚ Criminal activity such as crimes of physical violence to persons or property and other criminal acts including drug related criminal activity that would adversely affect the health, safety, or welfare of other residents or staff or cause damage to the unit or the development; and</li> <li>✚ A record of eviction from housing or termination from residential programs.</li> </ul> </li> </ul> </li> </ul> </li> </ul>
Low-income Household	A family whose annual income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller and larger families [42 USC 1437a(b0)]
Manufactured Homes	A Manufactured structure that is built on a permanent chassis that is designed for use as a principal place of residence, and meets the HQS.
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.
Medical Expense	Those necessary 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. Medical expenses, in excess of three percent (3%) of Annual Income, are deductible from income by elderly families only [24 CFR 5.603].
Military Service	Military Service means the active military service of the United States, which includes the Army, Navy, Air Force, Marine Corps, Coast Guard, and, since July 29, 1945, the commissioned corps of the United States Public Health Service.

Minimum Rent	The HA has the discretion to establish the minimum rent from \$0 up to \$50.
Minimum Rent hardship Exemptions	<p>The HA shall immediately grant an exemption from application of the minimum monthly rent to any family making a proper request in writing who is unable to pay because of financial hardship, which shall include:</p> <ul style="list-style-type: none"> <li>• The family has lost eligibility for, or is awaiting an edibility determination for a federal, state, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the immigration and nationalization act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.</li> <li>• The family would be evicted as a result of the implementation of the minimum rent.</li> <li>• The income of the family has decreased because of changed circumstance, including loss of employment.</li> <li>• A death in the family has occurred which affects the family circumstances.</li> <li>• Other circumstances which may be decided by the HA on a case-by-case basis.</li> </ul> <hr/> <p><b>All of the above must be proven by the Resident providing verifiable information in writing to the HA prior to the rent becoming delinquent and before the lease is terminated by the HA.</b></p> <hr/> <p>If a resident requests a hardship exemption (prior to the rent being delinquent) under this section, and the HA reasonably determines the hardship to be of a temporary nature, exemption shall not be granted during a ninety day period beginning upon the making of the request for the exemption. A resident may not be evicted during the ninety-day period for non-payment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the HA shall retroactively exempt the resident from the applicability of the minimum rent requirement for such ninety day period. This Paragraph does not prohibit the HA from taking eviction action for other violations of the lease.</p>
Minor	A "minor" is a person under nineteen years of age. Provided, that a married person 18 years of age or older shall be considered to be of the age of majority. (An unborn child may not be counted as a minor.) Some minors are permitted to execute contracts, provided a court declares them "emancipated."
Mixed Family	A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.
Monthly Adjusted Income	One twelfth of Adjusted Annual Income.
Monthly Income	One twelfth of Annual Income.
Mutual Housing	See definition of "cooperative housing."
Multifamily Housing Project	For purposes of Section 504, means a project containing five or more dwelling units. [24 CFR 8.3]
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.
Net Family Assets	<p>The net cash value, after deducting reasonable costs that would be incurred in disposing of: [24 CFR 5.603]</p> <ul style="list-style-type: none"> <li>• Real property (land, houses, mobile homes)</li> <li>• Savings (CDs, IRA or KEOGH accounts, checking and savings accounts, precious metals)</li> <li>• Cash value of whole life insurance policies</li> <li>• Stocks and bonds (mutual funds, corporate bonds, savings bonds)</li> <li>• Other forms of capital investments (business equipment)</li> </ul> <p>Net cash value is determined by subtracting the reasonable costs likely to be incurred in selling or disposing of an asset from the market value of the asset. Examples of such costs are brokerage or legal fees, settlement costs for real property, or penalties for withdrawing saving funds before maturity. Net Family assets also include the amount in excess of any consideration received for assets disposed of by an applicant or resident for less than fair market value during the two years preceding the date of the initial certification or reexamination. This does not apply to assets transferred as the result of a foreclosure or</p>

	bankruptcy sale. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be less than fair market value if the applicant or resident receives important considerations not measurable in dollar terms [24 CFR 5.603(b)(3)].
Non-citizen	A person who is neither a citizen nor national of the United States.
Notice of Funds Availability (NOFA)	For budget authority that HUD distributes by competitive process, the federal register document that invites applications for funding. The document explains how to apply for assistance and the criteria for awarding the funding.
Other Person Under the Tenant's Control	The person although not staying as a guest in the unit is or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control (e.g. the Pizza Delivery person)
Owner	Any person or entity with the legal right to lease or sublease a unit to a participant.
Participant	A family that has been admitted to the HA program, and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the HA for the family.
Payment Standard	The maximum subsidy payment for a family (before deducting the family contribution). The HA sets a payment standard in the range from 90 percent to 110 percent of the current FMR.
Person with Disabilities [42 USC 1437a(b)(3)]	<p>Means a person who:</p> <ul style="list-style-type: none"> <li>• Has a disability as defined in Section 223 of the Social Security Act (42 USC 423); or,</li> <li>• Has a physical, mental or emotional impairment that: <ul style="list-style-type: none"> <li>○ Is expected to be of long continued and indefinite duration;</li> <li>○ Substantially impedes his/her ability to live independently; and,</li> <li>○ Is of such nature that such disability could be improved by more suitable housing conditions; or,</li> <li>○ Has a developmental disability as defined in Section 102 (5) (b) of the Developmental Disabilities Assistance and Bill of Rights Act [42 USC 6001 (5)].</li> </ul> </li> </ul> <hr/> <p><b>A person with disabilities may be a child.</b></p> <hr/>
Portability	Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial HA.
Preference	At the option of the HA, a preference system can be used to select among applicant families.
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.
Program	The tenant-based housing voucher program.
Project Based	Rental assistance that is attached to the structure.
Public Housing Agency (HA)	Any State, County, Municipality or other government entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development of operation of housing for lower income families.
Reasonable Rent	A rent to owner that is not more than either: Rent charged for comparable units in the private unassisted market; or Rent charged by the owner for a comparable unassisted unit in the building or premises.
Receiving HA	In portability, an HA that receives a family selected for participation in the tenant-based program of another HA. The receiving HA issues a certificate or voucher, and provides program assistance to the family.
Reexamination	Reexamination is sometimes called recertification. The process of securing documentation, which indicates that tenants meet the eligibility requirements for, continued occupancy.
Re-Examination Date	The date on which any rent change is effective or would be effective if required as a result of the annual reexamination of eligibility and rent. The reexamination date(s) is the anniversary date (month) of the lease.

Remaining Member Of The Resident Family	The person(s) of legal age remaining in the leased unit after the person(s) who signed the lease has (have) left the premises, other than by eviction, which may or may not normally qualify for assistance on their own circumstances. An individual must occupy the unit to which he claims head of household status for one year before becoming eligible for subsidized housing as a remaining family member. This person must complete forms necessary for housing within ten days from the departure of the leaseholder and may retain assistance for a reasonable time pending the verification and hearing process. This person must, upon satisfactory completion of the verification process, then execute a new lease and cure any monetary obligations in order to remain on the program. Any person who claims him or herself as a remaining member shall, in the event that the HA declares him or her ineligible for remaining member status, be entitled to the hearing process upon notice to him or her that he or she is not considered to be a remaining member of the household. The person requesting remaining member status must request this hearing in writing within ten days from the date of the departure of the head of household. The HA does not recognize the person as a participant by giving him or her opportunity for a hearing. A remaining member shall not be considered to be a participant until such time as a new lease is executed by the HA and the person granted tenant status after the verification status.
Rent to Owner	The total monthly rent payable to the owner under the lease for the unit. Rent to Owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.
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.
Single Person	A person who lives alone or intends to live alone, and who does not qualify as an elderly family or a displaced person, or as the remaining member of a tenant family.
Single Room Occupancy	Single Room Occupancy (SRO) Housing is a unit which does not contain sanitary facilities or food preparation facilities, or which contains one but not both types of facilities, and is suitable for occupancy by an eligible individual who is capable of independent living. SRO Housing is not substandard solely because it does not contain sanitary facilities or food preparation facilities, or both.
Special Admission	Admission of an applicant that is not on the HA waiting list, or without considering the applicant's waiting list position.
Spouse	Either member of a married pair in relation to the other.
Standard Permanent Replacement Housing	<p>Is housing:</p> <ul style="list-style-type: none"> <li>• That is decent, safe, and sanitary;</li> <li>• That is adequate for the family size; and</li> <li>• That the family is occupying pursuant to a lease or occupancy agreement.</li> </ul> <p>Such housing does not include transient facilities, such as motels, hotels, or temporary shelters for victims of domestic violence or homeless families, and in the case of domestic violence, does not include the housing unit in which the applicant and the applicant's spouse or other member of the household who engages in such violence live.</p> <hr/> <p><b>A "homeless family" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.</b></p> <hr/>
Subsidy Standards	Standards established by an HA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and composition.
Substandard Housing	<p>A unit is substandard if it:</p> <ul style="list-style-type: none"> <li>• Is dilapidated; <ul style="list-style-type: none"> <li>○ Does not have operable indoor plumbing;</li> <li>○ Does not have a usable flush toilet inside the unit for the exclusive use of a family;</li> <li>○ Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;</li> <li>○ Does not have electricity, or has inadequate or unsafe electrical service;</li> <li>○ Does not have a safe or adequate source of heat;</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>○ Should, but does not, have a kitchen; or</li> <li>○ Has been declared unfit for habitation by an agency or unit of government.</li> </ul> <ul style="list-style-type: none"> <li>• A housing unit is dilapidated if it does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family, or it has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may involve original construction, or they may result from continued neglect or lack of repair or from serious damage to the structure.</li> </ul> <p>An applicant who is a "homeless family" is living in substandard housing. For purposes of the preceding sentence, a "homeless family" includes any individual or family who:</p> <ul style="list-style-type: none"> <li>• Lacks a fixed, regular, and adequate nighttime residence; and</li> <li>• Has a primary nighttime residence that is: <ul style="list-style-type: none"> <li>○ A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing programs);</li> <li>○ An institution that provides a temporary residence for individuals intended to be institutionalized; or</li> <li>○ A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.</li> </ul> </li> </ul>
Suspension	Stopping the clock on the term of a family's certificate or voucher on the date that the HA receives the request for lease approval by the family.
Temporarily Absent Family Members	Any person(s) on the lease that is not living in the household for a period of more than thirty days (30) is considered temporarily absent. Absences of more than six months are not generally considered to be temporary and must be approved by the HA.
Tenant Rent	The amount payable monthly by the Family as rent to the landlord. Where all utilities (gas, water, and electricity) are supplied by the landlord, Tenant Rent equals Total Tenant Payment or minimum rent. Where some or all utilities (gas, water and electricity) are not supplied by the HA and the cost thereof is not included in the amount paid as rent, Tenant Rent equals Total Tenant Payment or minimum rent less the utility allowance. Telephone and cable television service is not a utility.
Total Tenant Payment (TTP)	<p>The TTP, or income based rent, is calculated using the following formula:</p> <ul style="list-style-type: none"> <li>• For the Public Housing Program, the TTP must be the greater of: <ul style="list-style-type: none"> <li>○ 30 percent of family monthly adjusted income (see note);</li> <li>○ 10 percent of family monthly income; or</li> <li>○ Which is the minimum rent set by the HA</li> </ul> </li> <li>• If the Resident pays any of the utilities directly to the utility supplier, the amount of the Utility Allowance is deducted from the TTP. [24 CFR 5.613] See the definition for Tenant Rent. It is possible for Section 8 participants to qualify for a utility reimbursement despite the requirement of a minimum rent. For example, if a participant family's TTP is the minimum rent of \$25 and the utility allowance for the size and type unit the family has selected is \$60, the family would receive a utility reimbursement of \$35 (\$60 less \$25) for tenant purchased utilities.</li> </ul>
Utilities	Utilities means water, electricity, gas, other heating, refrigeration and cooking fuels, trash collection, and sewerage services. Telephone service is not included as a utility.
Utility Allowance	If the cost of utilities (except telephone and cable) and other housing services for an assisted unit is not included in the rent, but is the responsibility of the family occupying the unit, then the utility allowance is an amount equal to the estimate made or approved by the HA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment. If the family pays directly for one or more utilities or services, the amount of the allowance is deducted from the gross rent in determining the contract rent and is included in the gross family contribution.



Utility Reimbursement Payment (URP)	Utility Reimbursement Payment is the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit. At the discretion of the HA, the check may be made payable jointly to the resident and utility provider or directly to the utility provider.
Very Low-Income Family	A lower Income Family means a family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes [42 USC 1437a(b)].
Violent Criminal Activity	Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause serious bodily injury or property damage.
Voucher	A document issued by an HA to a family selected for to the housing voucher program. The voucher describes the program and the procedures for HA approval of a unit selected by the family. The voucher also states the obligation of the family under the program.
Voucher Holder	A family holding a voucher with unexpired search time.
Wage Earner	A person in a gainful activity who receives any wages. Said wages or pay covers all types of employee compensation including salaries, vacation allowances, tips, bonuses, commissions, and unemployment compensation.  <b><u>The terms "Wage Earner" and "Worker" are used interchangeably.</u></b>
Waiting List Admission	An admission from the HA waiting list.
Welfare Assistance	Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments.
Gender Identity	Actual or perceived gender-related characteristics.
Sexual Orientation	Homosexuality, heterosexuality, or bisexuality.

## **XLII Appendix “B” Determination of Portability Request**

The Foley Housing Authority will utilize the DETERMINATION OF PORTABILITY REQUEST form which is provided by AAHRA. The form follows on the next page.

**DETERMINATION OF PORTABILITY REQUEST**

<b>PHA</b>		<b>FAMILY NAME</b>		<b>DATE</b>	
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Title 24 CFR Part 982.314 (e)(l) states that PHAs may deny a move if the PHA does not have sufficient funding for continued assistance. For portability moves, HQ has advised that PHAs should document three stipulations before denying a move. There must be insufficient funding for continued assistance, it must be confirmed that the receiving PHA(s) will not be absorbing the voucher, and the cost of HAP will be higher in the new jurisdiction. The following documents the PHA **determination**:

Location(s) where family has requested to move \_\_\_\_\_ PHA(s) contacted:

PHA Name	Person Contacted	Phone #	Absorb (Y/N)

Will any of the PHAs absorb the family? **Yes/No** If yes, portability is approved. If no, continue below:

**Determination of higher cost area:**

Subsidy Standard (ST) for Family

Payment Standard (PS) for Family

Receiving: PHA	Subsidy Standard	Payment Standard

Is the payment standard less at any of the PHAs? **Yes/No** If yes, portability is approved.

If no, compute the estimated additional cost for the remainder of the year (current PS \_\_\_\_\_ less receiving PHA

PS \_\_\_\_\_ times remaining months \_\_\_\_\_ = additional cost \_\_\_\_\_) and continue below:

**Determination of sufficient funds:**

Has the PHA developed and implemented a cost reduction plan for HAP? **Yes/No** If no, a plan must be developed and implemented prior to denying a port.

- |   |           |
|---|-----------|
| a. Total budget authority approved for CY 2019        | (a) _____ |
| b. HAP expended through the last month                | (b) _____ |
| c. Current vouchers leased                            | (c) _____ |
| d. Current HAP PUC                                    | (d) _____ |
| e. Current monthly HAP (c*d)                          | (e) _____ |
| f. Estimated remaining HAP needs (e*remaining months) | (f) _____ |
| g. Total projected HAP for year (b + f)               | (g) _____ |
| h. Projected balance (deficit) for CY 2019 (a-g)      | (h) _____ |

Is h negative? **Yes/No**. If yes, deny portability. If no, is h less than the estimated additional cost computed above? **Yes/No**  
If yes, deny portability. If no, approve portability.

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## **XLII. Appendix “C” PHA’s Rent Reasonableness Methodology**

The Foley Housing Authority will utilize the program offered by Nan McKay University;  
GO SECTION 8.

This program is designed to adhere to HUD requirements regarding Rent Reasonableness.

### **XLIII. Appendix “D” PHA’s HAP Cost Reduction Plan.**

FHA hereby establishes in its Administrative Plan the following options that will be considered by the Board of Commissioners depending on the particular circumstances at the time. Before taking one or more of these options, the FHA will consult with the HUD Field Office for support and potential guidance. They are not listed in any particular order.

If the FHA requests more than one cost-savings waiver from HUD, the FHA will demonstrate how the waivers are necessary to avoid a shortfall that would result in the termination of families from the FHA Housing Choice Voucher/Section 8 program(s).

No options will be implemented without approval from the Board of Commissioners and the opportunity for affected participants to address the Board of Commissioners. Any actions taken under this section of the Administrative Plan will sunset if and when the procuring reason for the action is no longer in effect. Rescissions will also require Board of Commissioner approval.

Any cost-savings measures that constitute a significant amendment or modification as defined in the Housing Authority’s Annual/Five-Year Plan (and as referenced in 24 CFR § 903.7(r)(2)) are subject to the requirements of a public hearing and comment period. However, not all cost-saving measures constitute a significant amendment; that determination must be made by the FHA.

There shall be one basic principle that will guide the FHA in implementing any or all of these options – what must the FHA do to assist the maximum number of eligible people in a quality Housing Choice Voucher Program while maintaining the fiscal integrity of the program. The FHA shall endeavor to protect elderly and disabled families from significant impact (defined as loss of one’s Housing Choice Voucher) but recognizes that what is feasible is dependent on the amount of funding provided to the program.

The options are as follows:

- a. The Housing Choice Voucher Payment Standards may be reviewed in light of the funding situation. If payment standards are reduced, the lower payment standard shall go into effect immediately for new admissions, participants moving from one unit to another, and people staying in place who require a new HAP contract because they are signing a new lease. In extraordinary circumstances, the FHA may be forced to ask HUD for a waiver so that even those participants staying in place without a new lease shall have their payment standard decreased immediately instead of the normal second regular reexamination after the lowering of the payment standard.
- b. Since Housing Authorities do not have to wait until the HAP contract anniversary date to review owner rents and reduce them if warranted, the Housing Authority will ensure that owner rents do not exceed amounts charged for unassisted units in the same project or complex. The initial rent

and all rent increases must comply with any State or local rent control limits. Further, any owner leasing promotions for unassisted tenants (e.g., the initial two months of occupancy are “rent free”) must be taken into consideration in determining rent reasonableness.

In accordance with the HAP contract, the Housing Authority will provide written notice to owners before reducing unreasonable rents. Rents may be reduced as early as the first of the following month. If the rent to owner is not reasonable as most recently determined by the Housing Authority, the owner must reduce the rent to the reasonable amount or the HAP contract must be terminated. In such cases, the family will be issued a HCV to find a new unit. (Moers, like new participants, are subject to the Housing Authority’s current payment and occupancy standards.)

Even if an owner’s rent is reasonable, FHA may request owners to voluntarily agree to a temporary rent reduction or defer rent increases to help avoid the termination of Hap contracts due to shortfalls in HCV funding. It is the owner’s option to agree to such measures. However, the FHA will not “freeze” rents due to insufficient funding when an owner requests an increase, if the agency determines the increased rent to be reasonable, and the owner does not agree to defer a rent increase.

- c. Housing Choice Voucher Payment Standards must be established according to HUD regulation so that no more than 40% of the participants are paying more than 30% of their monthly adjusted income for rent. If circumstances dictate it, the FHA may be forced to ask for a waiver of this prohibition in order to sufficiently lower its payment standard.
- d. The utility allowance schedule may be reviewed to determine if the utility allowances are too high. If they are too high that means that the participants are being subsidized in an excess manner. The new utility allowance schedule may be placed into effect after a thirty-day notice or at a participant’s next reexamination depending on the financial circumstances the FHA finds itself in.

Utility allowances are supposed to be adjusted annually or sooner if there is a utility rate increase of 10% or more. If circumstances warrant, the FHA reserves the right to seek a HUD waiver of this regulatory requirement.

- e. An initial PHA may request that a receiving PHA absorb portable families for which the initial PHA is being billed. This may include the receiving the receiving PHA retroactively absorbing families for which the initial PHA was already billed and made payments. In these cases, the receiving PHA reimburses the initial PHA for payments made back to the effective date of the absorption, but only for the current calendar year. Both the receiving PHA and initial PHAs must agree to this arrangement. This provision provides an exception to section 10 of Notice PIH 2011-3 on HCV

Portability and Corrective Actions. (Section 10 provides that the receiving PHA may not retroactively absorb families for which the receiving PHA was previously billing for any time period that commences before 10 working days from the time the receiving PHA notifies the initial PHA of the absorption.) The Housing Authority will attempt to get receiving PHAs to absorb whenever possible.

If the FHA is the receiving PHA, it will not “absorb” a family into its HCV program until it executes a HAP contract on behalf of the family that moves to a new unit. The FHA will not engage in sham or fake portability paperwork exercises in an attempt to address their utilization or leasing problems. If the family is not placed under a Hap contract for a new unit in the receiving PHA’s jurisdiction, the receiving PHA cannot absorb the family.

- f. If financial circumstances dictate, the FHA may deny portability moves to a higher cost area for its HCV participants and/or shoppers if the FHA has insufficient funds to pay the higher subsidy amounts and the receiving housing authority declines to absorb the family. While the Board of Commissioners must establish this policy after an examination of the fiscal affairs of the organization, individual denials of portability shall only occur after the FHA has determined that the receiving housing authority will not absorb the family. The denial of absorption shall be documented in that person’s file.

This can only occur if the portability action would cause the FHA to be unable to avoid terminating the vouchers of current voucher participants during the affected calendar year. If a family is denied its portability request, no subsequent families will be admitted to the program until the FHJA has determined that sufficient funding exists to approve the move and has notified the family that the family may now exercise its move to the higher cost area.

The FHA will notify the HUD Field Office in writing within ten business days of determining that this is necessary before taking this action that it is denying a portability move. The notification will include:

- i. A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. The projection must not include vouchers that have been issued but are not yet under contract.

In projecting whether there is sufficient funding available for the remainder of the CY, the Housing Authority may use reasonable estimates to factor in conditions such as pending rent increases and attrition rates for families leaving the program.



If this insufficient funding condition exists, the Housing Authority does not need a regulatory waiver from HUD to deny a request to move.

- ii. A statement certifying the FHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves to a higher cost unit is in place.
- iii. A copy of this Section Administrative Plan stating how the FHA will address families who have been denied moves.

If a family is denied a portability request due to lack of funding, it shall be so notified in writing when the denial is made. The letter shall include the period the family's request to move shall remain active for six (6) months and how they will be notified when funds become available.

- g. If financial circumstances dictate, the FHA may deny the right of a participant to move within the jurisdiction of the FHA to a portion of the jurisdiction that has a higher payment standard than the portion of the jurisdiction the participant currently lives in if the FHA has insufficient funds to pay the higher subsidy amounts.
- h. Housing Choice Vouchers issued to families on the waiting list that have not resulted in Hap contracts may be cancelled.
- i. The FHA may be forced to not reissue vouchers surrendered by current participants immediately upon their return to the Housing Authority. Instead, the vouchers may be held in the Authority's inventory in order to avoid dire financial consequences. The amount of time they will be held shall be determined based upon the financial situation of the Housing Authority.
- j. The subsidy standards set forth in Section 6.0 may be reexamined. The FHA may revise subsidy standards that exceed minimum HUD requirements to reduce bedroom size eligibility in accordance with 24 CFR § 982.402. Subsidy standards must be consistent with the HQS space requirements in 24 CFR § 982.401(d) which includes a dwelling unit must have at least one bedroom or living sleeping area for each two persons. Children of the opposite sex, other than the very young, may not be required to occupy the same bedroom or living/sleeping room.

If a family leases a unit larger than the unit size on the voucher, the FHA will ensure that the payment standard used to calculate the tenant share is based on the lower of the voucher unit size for which the family is eligible or the actual

unit size leased. If the family size is reduced after admission, the FHA will ensure that the correct payment standard is used in calculating the family rent portion. An “empty nester” single individual (or any household with similarly reduced member size) living in a 3-bedroom unit should have a 0- or 1-bedroom payment standard, not a 3-bedroom payment standard. If the unit size for which the family is eligible changes during the term of the HAP contract, the new unit size is applicable at the first regular reexamination following the change in accordance with 24 CFR § 982.505(c)(5).

- k. A program-wide study may be conducted to ensure that families are utilizing the proper size Housing Choice Voucher for their current family size.
- l. If the minimum rent is increased under Section XX (2), it can be made the first of the month following the month families are notified of the increase (provided there has been at least a 30-day notice) instead of at the next reexamination.
- m. The requirement of when families have to report changes of their income as set forth in Section XXI (B) may be modified due to the financial pressure facing the FHA. Also, the new rent payment may become effective at the start of the next month provided there has been a thirty day notice.
- n. If the FHA is forced to stop issuing all of its Housing Choice Vouchers due to a funding shortfall and has any special purpose vouchers for non-elderly disabled persons (NED), Family Unification Program (FUP), or HUD Veterans Affairs Supportive Housing (VASH) then when it resumes issuing Housing Choice Vouchers it will re-issue the NED, FUP and/or VASH Vouchers in the same proportion as they exist in relation to the overall program.
- o. The absolutely last step the FHA will take to resolve its Housing Choice Voucher financial problems will be to terminate the vouchers of families already receiving assistance. The HUD Field Office and the FMC financial analyst will be notified prior to notices of termination being issued. If this becomes necessary, the following sequence shall be used to determine which individual Housing Choice Vouchers are terminated first.
  - 1. FHA will terminate HAP contracts for non-disabled, non-elderly and non-homeownership households that have been on the program the longest. FHA shall terminate a family based upon their date of admittance to the program. For this purpose, FHA shall consider the family’s original lease date under FHA’s Housing Choice Voucher Program to be their date of admittance to the HCVP. The family that was first admitted to the program, according to their original lease date, shall

be the first to have assistance terminated due to the lack of adequate funding from HUD. First, to be terminated will be households consisting of single individuals. Second, to be terminated will be households consisting of multiple family members without dependents under the age of eighteen. Finally, after the terminations above have been made and FHA determines that additional cuts have to be made, then families with dependents under the age of eighteen will be terminated on a first in-first out method described above. Terminations shall be made until FHA determines a sufficient number of families have been terminated to allow FHA to have sufficient funding to support families in the program. Priority status shall be determined as of the date of the Executive Director certifies that insufficient funding exists. HUD approval is required prior to termination of any contracts for insufficient funding.

If it becomes necessary for the JCHA to terminate Housing Choice Vouchers, the families terminated shall be reinstated onto the program as soon as fiscally and practically feasible.

1. HA will automatically add terminated families to the top of the waiting list according to their termination date in reverse order. If more than one family is terminated on the same, the family with the lowest income will be reinstated first. The families will be added regardless of whether the waiting list is open or closed. If and when subsidy is restored, HA will issue vouchers to the terminated families in reverse order according to their termination date (must be income eligible at time of re-admission) before issuing to non-terminated families on the waiting list.

Notwithstanding the FHA's adoption of policies noted above to deny portability or moves within its jurisdiction or revision of payment or subsidy standards, reasonable accommodation requests for a person's disability must still be evaluated in accordance with HUD's Section 504 implementing regulations at 24 CFR part 8. Such requests will be granted when an accommodation may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, unless it would impose an undue financial and administrative burden on the FHA or fundamentally alter the nature of the FHA's operations.